15735

# TRANSCRIPT OF RECORD.

## SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 421.

THE GALVESTON, HARRISBURG AND SAN ANTONIO RAILWAY COMPANY AND E. P. HILL AND W. N. SHAW, PLAINTIFFS IN ERROR,

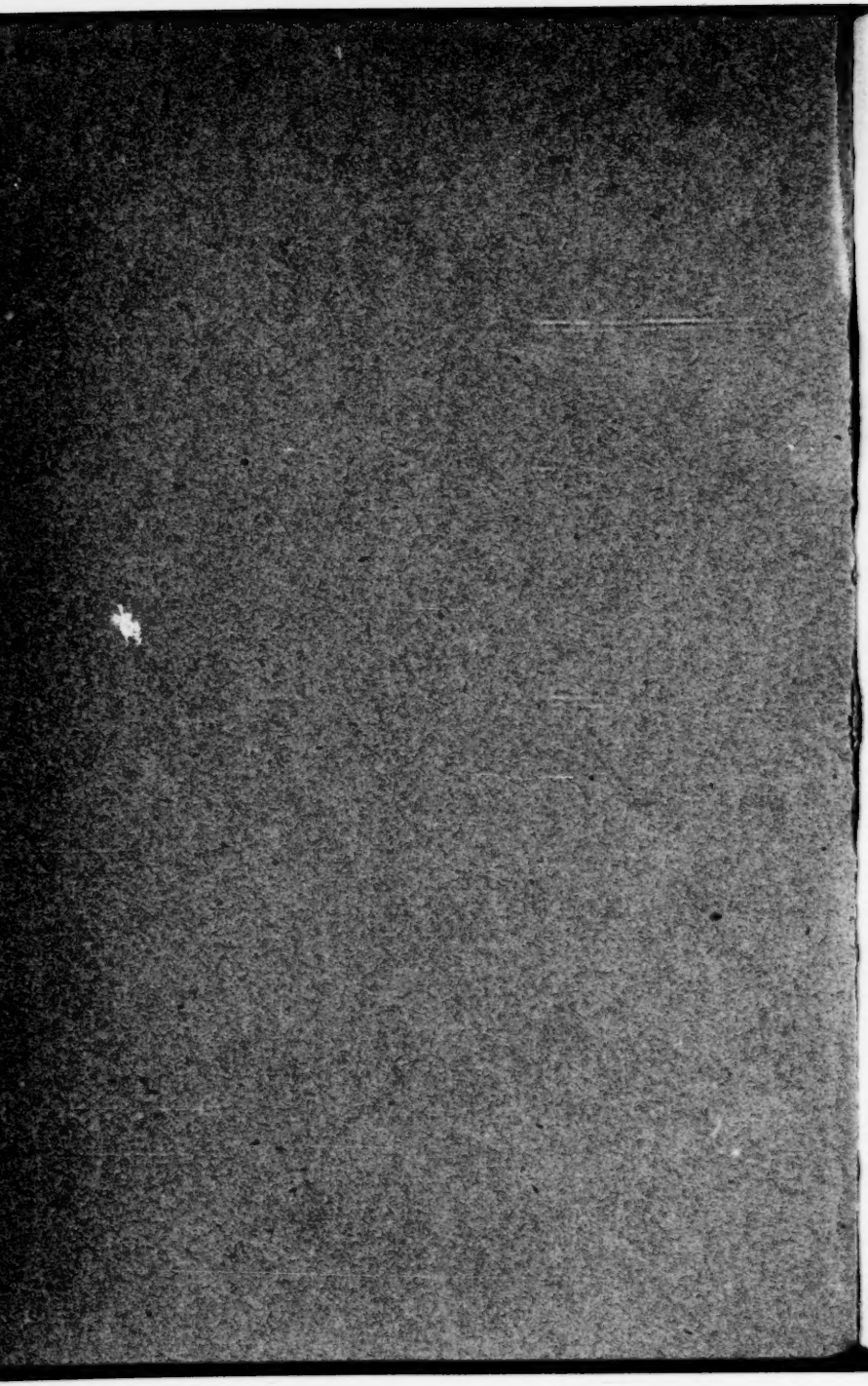
*vs.*

THE STATE OF TEXAS.

IN ERROR TO THE COURT OF CIVIL APPEALS FOR THE FOURTH SUPREME JUDICIAL DISTRICT OF THE STATE OF TEXAS.

FILED JULY 22, 1897.

(16,634.)



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15736

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## OCTOBER TERM, 1897.

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*vs.*

THE STATE OF TEXAS.

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IN ERROR TO THE COURT OF CIVIL APPEALS FOR THE FOURTH SUPREME JUDICIAL DISTRICT OF THE STATE OF TEXAS.

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1 to 3 STATE OF TEXAS,
*County of Brewster,*

At a term of the district court begun and holden at Alpine, within and for the county of Brewster, before the Hon. Walter Gillis, and ending on the 16th day of September, A. D. 1893, the following case came on for trial, to wit:

THE STATE OF TEXAS, Plaintiff,
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY, Defendant.

*Plaintiff's First Amended Original Petition.*

In the District Court of Brewster County.

Filed March 13, 1893.

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY.

To the Honorable Walter Gillis, judge of said court:

Now comes The State of Texas, acting by and through C. A. Culberson, its attorney general, and with leave of the court files this its first amended original petition in lieu of its original petition filed herein on the 5th day of January, 1893, complaining of the Galveston, Harrisburg & San Antonio Railway Company, and respectfully represents and shows to the court:

(1.) The defendant is a railroad corporation regularly chartered and organized under and by virtue of the laws of the State of Texas, and owns and is operating a line of railroad into and through the county of Brewster, in the State of Texas, and has its principal office in the city of Houston, in the county of Harris, in said State, and that John Bagnal is the secretary and V. J. Herder is the treasurer of said company, both of whom reside in the city of Houston, Harris county, Texas, and said company has a local agent in Brew-
4 ster county, to wit, L. McCarthy and G. W. Collie.

(2.) The plaintiff, The State of Texas, is now and was on, to wit, the 1st day of January, 1891, the owner in fee-simple and in possession of the following-described thirteen hundred and eighty-three (1,383) sections, tracts, or parcels of land, containing in the aggregate, to wit, eight hundred and seventy-nine thousand and seventy-eight and one-twentieth (879,078 1/20) acres, situated in the counties of Jeff Davis, Presidio, Brewster, Kimble, San Saba, Val Verde, Crockett, McCulloch, Pecos, Buchel, Reeves, Schleicher, Sutton, and Zavalla, in the State of Texas, and described by the number of certificates, number of acres, date of issuance of certificates, county of location, survey, block and abstract number, and whether and when patented, as follows, to wit, said lands being arranged and described in five exhibits, marked respectively "A," "B," "C," "D," and "E."



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EXHIBIT "A."

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio Railway Company for the section of road beginning at the point of junction with the old line of the Buffalo Bayou, Brazos and Colorado River R. R. at a distance of 493 feet west of the west end of the approach to the bridge over the Colorado river and ending at the west approach to the bridge over the West Navidad river, being 24 miles and 3,029 feet of main track and 6,266 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/1 | 640 | Jan'y 9, 1874 | Jeff Davis county..... | " 1 | 1 | 184 |
| 1/2 | " | " | Presidio " ..... | " 3 | 1 | 99 |
| 1/3 | " | " | " ..... | " 5 | 1 | 100 |
| 1/4 | " | " | " ..... | " 7 | 1 | 101 |
| 1/5 | " | " | " ..... | " 9 | 1 | 102 |
| 1/6 | " | " | " ..... | " 11 | 1 | 103 |
| 1/7 | " | " | " ..... | " 1 | 2 | 104 |
| 1/8 | " | " | Jeff Davis county..... | " 3 | " | 185 |
| 5 | | | | | | |
| 1/9 | " | " | " ..... | " 5 | " | 186 |
| 1/10 | " | " | " ..... | " 7 | " | 187 |
| 1/11 | " | " | " ..... | " 9 | " | 188 |
| 1/12 | " | " | " ..... | " 11 | " | 189 |
| 1/13 | " | " | " ..... | " 13 | " | 190 |
| 1/14 | " | " | " ..... | " 15 | " | 191 |
| 1/15 | " | " | " ..... | " 17 | " | 192 |
| 1/16 | " | " | " ..... | " 19 | " | 193 |
| 1/17 | " | " | " ..... | " 21 | " | 194 |
| 1/18 | " | " | " ..... | " 23 | " | 195 |
| 1/19 | " | " | " ..... | " 25 | " | 196 |
| 1/20 | " | " | " ..... | " 27 | " | 197 |
| 1/21 | " | " | " ..... | " 29 | " | 198 |
| 1/22 | " | " | " ..... | " 1 | 3 | 261 |
| 1/23 | " | " | " ..... | " 3 | " | 262 |
| 1/24 | " | " | " ..... | " 5 | " | 263 |
| 1/25 | " | " | " ..... | " 7 | " | 264 |
| 1/26 | " | " | " ..... | " 9 | " | 265 |
| 1/27 | " | " | " ..... | " 11 | " | 266 |
| 1/28 | " | " | " ..... | " 13 | " | 267 |
| 1/29 | " | " | " ..... | " 15 | " | 268 |
| 1/30 | " | " | " ..... | " 17 | " | 269 |
| 1/31 | " | " | " ..... | " 19 | " | 270 |
| 1/32 | " | " | " ..... | " 21 | " | 271 |
| 1/33 | " | " | " ..... | " 23 | " | 272 |
| 1/34 | " | " | " ..... | " 25 | " | 273 |
| 1/35 | " | " | " ..... | " 27 | " | 274 |
| 1/36 | " | " | " ..... | " 29 | " | 275 |
| 1/37 | " | " | " ..... | " 31 | " | 276 |
| 1/38 | " | " | " ..... | " 33 | " | 277 |
| 1/39 | " | " | " ..... | " 35 | " | 278 |
| 1/40 | " | " | " ..... | " 37 | " | 279 |
| 1/41 | " | " | " ..... | " 39 | " | 280 |
| 1/42 | " | " | " ..... | " 41 | " | 281 |
| 1/43 | " | " | " ..... | " 43 | " | 282 |
| 1/44 | " | " | " ..... | " 45 | " | 283 |
| 1/45 | " | " | " ..... | " 47 | " | 284 |

BLEED THROUGH

6 Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the point of junction with the old line of the Buffalo Bayou, Brazos & Colorado River R. R. at a distance of 493 feet west of the west end of the approach to the bridge over the Colorado river and ending at the west end of the approach to the bridge over the West Navidad river, being 24 miles and 2,910 feet of main track and 6,266 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/46 | 640 | Jan. 9, 1874 | Jeff Davis county | ..... | " 49 | 3 | 285 |
| 1/47 | " | " | " | ..... | " 51 | " | 286 |
| 1/48 | " | " | " | ..... | " 53 | " | 287 |
| 1/116 | " | " | " | June 7, 1876 | 189 | 3 | 390 |
| 1/117 | " | " | " | " | 191 | " | 391 |
| 1/118 | " | " | " | " | 193 | " | 392 |
| 1/119 | " | " | " | " | 195 | " | 393 |
| 1/120 | " | " | " | " | 197 | " | 396 |
| 1/122 | " | " | " | 16, | 201 | " | 396 |
| 1/124 | " | " | " | " | 205 | " | 398 |
| 1/126 | " | " | " | 15, | 209 | " | 400 |
| 1/128 | " | " | " | " | 213 | " | 402 |
| 1/130 | " | " | " | 14, | 217 | " | 404 |
| 1/132 | " | " | " | " | 221 | " | 406 |
| 1/134 | " | " | " | " | 225 | " | 408 |
| 1/140 | " | " | " | " | 237 | " | 414 |
| 1/141 | " | " | " | 20, | 239 | " | 415 |
| 1/142 | " | " | " | " | 241 | " | 416 |
| 1/143 | " | " | " | " | 243 | " | 417 |
| 1/144 | " | " | " | 19, | 245 | " | 418 |
| 1/145 | " | " | " | " | 247 | " | 419 |
| 1/146 | " | " | " | " | 249 | " | 420 |
| 1/147 | " | " | " | " | 251 | " | 421 |
| 1/148 | " | " | " | " | 253 | " | 422 |
| 1/149 | " | " | " | " | 255 | " | 423 |
| 1/150 | " | " | " | " | 257 | " | 424 |
| 1/151 | " | " | " | 20, | 259 | " | 425 |
| 7 | | | | | | | |
| 1/152 | " | " | " | " | | | |
| 1/153 | " | " | " | " | 261 | " | 426 |
| 1/154 | " | " | 1/10 Jeff Davis.. 9/10 El Paso.... | " | 263 | " | 427 |
| 1/155 | " | " | Presidio..... | " | 265 | " | 428–2648 |
| 1/156 | " | " | 1/4 Jeff Davis... 3/4 El Paso..... | " | 267 | " | 252 |
| 1/157 | " | " | Jeff Davis..... | " | 269 | " | 429–2649 |
| 1/158 | " | " | " ..... | " | 271 | " | 430 |
| 1/159 | " | " | " ..... | " | 273 | " | 431 |
| 1/160 | " | " | " ..... | " | 275 | " | 432 |
| 1/161 | " | " | " ..... | June 20, 1876 | 277 | " | 433 |
| 1/162 | " | " | " ..... | ..... | " 279 | " | 434 |
| 1/163 | " | " | " ..... | ..... | " 281 | " | 435 |
| 1/164 | " | " | " ..... | ..... | " 283 | " | 436 |
| 1/165 | " | " | " ..... | ..... | " 285 | " | 437 |
| 1/166 | " | " | " ..... | ..... | " 287 | " | 438 |
| 1/167 | " | " | " ..... | ..... | " 289 | " | 439 |
| 1/168 | " | " | " ..... | ..... | " 291 | " | 181 |
| 1/169 | " | " | " ..... | ..... | " 293 | " | 182 |
| | | | | | " 295 | " | 183 |

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Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the point of junction with the old line of the Buffalo Bayou, Brazos and Colorado River R. R. at a distance of 493 feet west of the west end of the approach to the bridge over the Colorado river and ending at the west end of the west approach to the bridge over the West Navidad river, being 24 miles and 3,910 feet of main track and 6,266 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/170 | 640 | Jan'y 9, 1874 | Jeff Davis county..... | " 1 | 4 | 297 |
| 1/171 | " | " | " ..... | " 3 | " | 298 |
| 1/172 | " | " | " ..... | " 5 | " | 299 |
| 1/173 | " | " | " ..... | " 7 | " | 300 |
| 1/174 | " | " | " ..... | " 9 | " | 301 |
| 1/175 | " | " | " .... | " 11 | " | 302 |
| 1/176 | " | " | " ..... | " 13 | " | 303 |
| 1/177 | " | " | " ..... | " 15 | " | 304 |
| 8 | | | | | | |
| 1/178 | " | " | " ..... | " 17 | " | 305 |
| 1/179 | " | " | " .... | " 19 | " | 306 |
| 1/180 | " | " | " .... | " 21 | " | 307 |
| 1/181 | " | " | " ..... | " 23 | " | 308 |
| 1/182 | " | " | " ..... | " 25 | " | 309 |
| 1/183 | " | " | " ... | " 27 | " | 310 |
| 1/184 | " | " | " ..... | " 29 | " | 311 |
| 1/185 | " | " | " .... | " 31 | " | 312 |
| 1/186 | " | " | " ..... | " 33 | " | 313 |
| 1/187 | " | " | " ..... | " 35 | " | 314 |
| 1/188 | " | " | Presidio..... ..... | " 37 | " | 285 |
| 1/189 | " | " | " ..... | " 39 | " | 286 |
| 1/190 | " | " | " ..... | " 41 | " | 287 |
| 1/191 | " | " | " ..... | " 43 | " | 288 |
| 1/192 | " | " | " ..... | " 45 | " | 289 |
| 1/193 | " | " | " ..... | " 47 | " | 290 |
| 1/194 | " | " | " ..... | " 49 | " | 291 |
| 1/195 | " | " | " ..... | " 51 | " | 292 |
| 1/196 | " | " | " ..... | " 53 | " | 293 |
| 1/197 | " | " | " ..... | " 55 | " | 294 |
| 1/198 | " | " | " ..... | " 57 | " | 295 |
| 1/199 | " | " | " ..... | " 59 | " | 296 |
| 1/200 | " | " | " ..... | " 61 | " | 297 |
| 1/201 | " | " | " ..... | " 63 | " | 298 |
| 1/202 | " | " | " ..... | " 65 | " | 299 |
| 1/203 | " | " | " ..... | " 67 | " | 300 |
| 1/204 | " | " | " ..... | " 69 | " | 301 |
| 1/205 | " | " | " ..... | " 71 | " | 302 |
| 1/206 | " | " | " ..... | " 73 | " | 303 |
| 1/207 | " | " | " ..... | " 75 | " | 304 |
| 1/208 | " | " | " ..... | " 77 | " | 305 |
| 1/209 | " | " | " ..... | " 79 | " | 306 |
| 1/210 | " | " | " ..... | " 81 | " | 307 |
| 1/211 | " | " | " ..... | " 83 | " | 308 |
| 1/212 | " | " | " ..... | " 85 | " | 309 |
| 1/213 | " | " | " ..... | " 87 | " | 310 |
| 1/214 | " | " | " ..... | " 89 | " | 311 |

BLEED THROU

9 Certificates, with siding included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at a point of junction with the old line of the Buffalo Bayou, Brazos & Colorado River R. R. at a distance of 493 feet west of the west end of the approach to the bridge over the Colorado river and ending at the west end of the west approach to the bridge over the West Navidad river, being 24 miles and 3,910 feet of main track and 6,266 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/215 | 640 | Jan'y 9, 1874 | Presidio county | ..... | " 91 | 4 | 312 |
| 1/216 | " | " | " | ..... | " 93 | " | 313 |
| 1/217 | " | " | " | ..... | " 95 | " | 314 |
| 1/218 | " | " | " | ..... | " 97 | " | 315 |
| 1/219 | " | " | " | ..... | " 99 | " | 316 |
| 1/220 | " | " | " | ..... | " 101 | " | 317 |
| 1/221 | " | " | " | ..... | " 103 | " | 318 |
| 1/222 | " | " | " | ..... | " 105 | " | 319 |
| 1/223 | " | " | " | ..... | " 107 | " | 320 |
| 1/224 | " | " | " | ..... | " 109 | " | 321 |
| 1/225 | " | " | " | ..... | " 111 | " | 322 |
| 1/226 | " | " | " | ..... | " 113 | " | 323 |
| 1/227 | " | " | " | ..... | " 115 | " | 324 |
| 1/228 | " | " | " | ..... | " 117 | " | 325 |
| 1/229 | " | " | " | ..... | " 119 | " | 326 |
| 1/230 | " | " | " | ..... | " 121 | " | 327 |
| 1/231 | " | " | " | ..... | " 123 | " | 328 |
| 1/232 | " | " | " | ..... | " 125 | " | 329 |
| 1/233 | " | " | " | ..... | " 127 | " | 330 |
| 1/234 | " | " | " | ..... | " 129 | " | 331 |
| 1/235 | " | " | " | ..... | " 131 | " | 332 |
| 1/236 | " | " | " | ..... | " 133 | " | 333 |
| 1/237 | " | " | " | ..... | " 135 | " | 334 |
| 1/238 | " | " | " | ..... | " 137 | " | 335 |
| 1/239 | " | " | " | ..... | " 139 | " | 336 |
| 1/240 | " | " | " | ..... | 1 | 5 | 337 |
| 1/241 | " | " | " | Jan'y 10, 1890 | 3 | " | 338 |
| 10 | | | | | | | |
| 1/242 | " | " | " | " | 5 | " | 339 |
| 1/243 | " | " | " | " | 7 | " | 340 |
| 1/244 | " | " | " | " | 9 | " | 341 |
| 1/245 | " | " | " | " | 11 | " | 342 |
| 1/246 | " | " | " | " | 13 | " | 343 |
| 1/247 | " | " | " | | " 15 | " | 344 |
| 1/248 | " | " | " | | " 17 | " | 345 |
| 1/249 | " | " | " | Jan'y 10, 1890 | 19 | " | 346 |
| 1/250 | " | " | " | " | 21 | " | 347 |
| 1/251 | " | " | " | " | 23 | " | 348 |
| 1/252 | " | " | " | Jan'y 11, 1890 | 25 | " | 349 |
| 1/253 | " | " | " | " | 27 | " | 350 |
| 1/254 | " | " | " | " | 29 | " | 351 |
| 1/255 | " | " | " | " | 31 | " | 352 |
| 1/256 | " | " | " | " | 33 | " | 353 |
| 1/257 | " | " | " | " | 35 | " | 354 |
| 1/258 | " | " | " | " | 37 | " | 355 |
| 1/259 | " | " | " | " | 39 | " | 356 |

H POOR COPY

Certificates, with siding- included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the point of junction with the old line of the Buffalo Bayou, Brazos & Colorado River R. R. at a distance of 493 feet west of the west end of the approach to the bridge over the Colorado river and ending at the west end of the west approach to the bridge over the West Navidad river, being 24 miles and 3,910 feet of main track and 6,266 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/260 | 640 | Jan'y 9, 1874 | Presidio county | Jan. 11, 1890 | 41 | 5 | 357 |
| 1/261 | " | " | " | " | 43 | " | 358 |
| 1/262 | " | " | " | " | 45 | " | 359 |
| 1/263 | " | " | " | " | 47 | " | 360 |
| 1/264 | " | " | " | " | 49 | " | 361 |
| 1/265 | " | " | " | " | 51 | " | 362 |
| 11 | | | | | | | |
| 1/266 | " | " | " | " | 53 | " | 363 |
| 1/267 | " | " | " | " | 55 | " | 364 |
| 1/268 | " | " | " | " | 57 | " | 365 |
| 1/269 | " | " | " | Jan. 3, 1890 | 59 | " | 366 |
| 1/270 | " | " | " | " | 61 | " | 367 |
| 1/271 | " | " | " | 3, | 63 | " | 368 |
| 1/272 | " | " | " | " | 65 | " | 369 |
| 1/273 | " | " | " | 4, | 67 | " | 370 |
| 1/274 | " | " | " | " | 69 | " | 371 |
| 1/275 | " | " | " | " | 71 | " | 372 |
| 1/276 | " | " | " | " | 73 | " | 373 |
| 1/277 | " | " | " | " | 75 | " | 374 |
| 1/278 | " | " | " | " | 77 | " | 375 |
| 1/279 | " | " | " | " | 79 | " | 376 |
| 1/280 | " | " | " | " | 81 | " | 377 |
| 1/281 | " | " | " | " | 83 | " | 378 |
| 1/282 | " | " | " | " | 85 | " | 379 |
| 1/283 | " | " | " | " | 87 | " | 380 |
| 1/284 | " | " | " | 6, | 89 | " | 381 |
| 1/285 | " | " | " | " | 91 | " | 382 |
| 1/286 | " | " | " | " | 93 | " | 383 |
| 1/287 | " | " | " | " | 95 | " | 384 |
| 1/288 | " | " | " | " | 97 | " | 385 |
| 1/289 | " | " | " | " | 99 | " | 386 |
| 1/290 | " | " | " | " | 101 | " | 387 |
| 1/291 | " | " | " | " | 103 | " | 388 |
| 1/292 | " | " | " | " | 105 | " | 389 |
| 1/293 | " | " | " | " | 107 | " | 390 |
| 1/294 | " | " | " | " | 109 | " | 391 |
| 1/295 | " | " | " | " | 111 | " | 392 |
| 1/296 | " | " | " | " | 113 | " | 393 |
| 1/297 | " | " | " | " | 115 | " | 394 |
| 1/298 | " | " | " | 7, | 117 | " | 395 |
| 1/299 | " | " | " | " | 119 | " | 396 |
| 1/320 | $250\frac{3}{4}$ | " | " | 14, | 1 | 7 | 417 |
| 1/321 | $638\frac{9}{10}$ | " | " | " | 3 | " | 418 |
| 1/322 | 636 | " | " | " | 5 | " | 419 |
| 1/323 | $633\frac{6}{10}$ | " | " | " | 7 | " | 420 |
| 1/324 | $631\frac{2}{10}$ | " | " | " | 9 | " | 421 |

BLEED THROUG

12 Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio Railway Co. for the section of road beginning at the point of junction with the old line of the Buffalo Bayou, Brazos and Colorado River R. R. at a distance of 493 feet west of the west end of the approach to the bridge over the Colorado river and ending at the west end of the west approach to the bridge over the West Navidad river, being 24 miles and 3,910 feet of main track and 6,266 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/325 | 628 $^{9}/_{10}$ | Jan. 9, 1874 | Presidio county | Jan'y 14, 1890 | 11 | 7 | 422 |
| 1/326 | 626 $^{6}/_{10}$ | " | " | " | 13 | " | 423 |
| 1/327 | 640 | " | " | " | 15 | " | 424 |
| 1/328 | " | " | " | " | 17 | " | 425 |
| 1/329 | " | " | " | " | 19 | " | 426 |
| 1/330 | " | " | " | " | 21 | " | 427 |
| 1/331 | " | " | " | " | 23 | " | 428 |
| 1/332 | " | " | " | " | 25 | " | 429 |
| 1/333 | 250 $^{1}/_{4}$ | " | " | 14, | 27 | " | 430 |
| 1/334 | 250 $^{3}/_{4}$ | " | " | " | 29 | " | 431 |
| 1/335 | 640 | " | " | " | 31 | " | 432 |
| 1/336 | " | " | " | 16, | 33 | " | 433 |
| 1/337 | " | " | " | 17, | 35 | " | 434 |
| 1/338 | " | " | " | 16, | 37 | " | 435 |
| 1/339 | " | " | " | 17, | 39 | " | 436 |
| 1/340 | " | " | " | 14, | 41 | " | 437 |
| 1/341 | " | " | " | " | 43 | " | 438 |
| 1/342 | " | " | " | 15, | 45 | " | 439 |
| 1/343 | " | " | " | " | 47 | " | 440 |
| 1/344 | " | " | " | " | 49 | " | 441 |
| 1/345 | " | " | " | " | 51 | " | 442 |
| 1/346 | " | " | " | " | 53 | " | 443 |
| 1/347 | 250 $^{3}/_{4}$ | " | " | " | 55 | " | 444 |
| 1/348 | 250 $^{1}/_{4}$ | " | " | 16, | 57 | " | 445 |
| 1/349 | 640 | " | " | 16, | 59 | " | 446 |
| 1/350 | " | " | " | 17, | 61 | " | 447 |
| 1/351 | " | " | " | " | 63 | " | 448 |
| 13 | | | | | | | |
| 1/352 | " | " | " | 16, | 65 | " | 449 |
| 1/353 | " | " | " | " | 67 | " | 450 |
| 1/354 | " | " | " | " | 69 | " | 451 |
| 1/355 | " | " | " | " | 71 | " | 452 |
| 1/356 | " | " | " | " | 73 | " | 453 |
| 1/357 | " | " | " | " | 75 | " | 454 |
| 1/358 | " | " | " | " | 77 | " | 455 |
| 1/359 | " | " | " | " | 79 | " | 456 |
| 1/360 | " | " | " | " | 81 | " | 457 |
| 1/361 | 403 | " | " | 11, | 83 | " | 458 |
| 1/362 | 501 | " | " | " | 85 | " | 459 |
| 1/363 | 346 | " | " | " | 87 | " | 460 |
| 1/364 | 243 $^{1}/_{2}$ | " | " | 13, | 89 | " | 461 |
| 1/365 | 640 | " | " | " | 91 | " | 462 |
| 1/366 | " | " | " | " | 93 | " | 463 |
| 1/367 | " | " | " | " | 95 | " | 464 |
| 1/368 | " | " | " | 14, | 97 | " | 465 |
| 1/369 | " | " | " | " | 99 | " | 466 |

POOR COPY

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. Co. for the section of road beginning at the point of junction with the old line of the Buffalo Bayou, Brazos and Colorado River R. R. at a distance of 493 feet west of the west end of the approach of the bridge over the Colorado river and ending at the west end of the west approach to the bridge over the West Navidad river, being 24 miles and 3,910 feet of main track and 6,266 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/370 | 640 | Jan. 9, 1874 | Presidio county | Jan. 14, 1890 | 101 | 7 | 467 |
| 1/371 | " | " | " | " | 103 | " | 468 |
| 1/372 | " | " | " | " 7, | 105 | " | 469 |
| 1/373 | " | " | " | " | 107 | " | 470 |
| 1/374 | " | " | " | " | 109 | " | 471 |
| 1/375 | " | " | " | " | 111 | " | 472 |
| 14 | | | | | | | |
| 1/376 | " | " | " | " | 113 | " | 473 |
| 1/377 | " | " | " | " | 115 | " | 474 |
| 1/378 | " | " | " | " 8, | 117 | " | 475 |
| 1/379 | " | " | " | " | 119 | " | 476 |
| 1/380 | " | " | " | " | 121 | " | 477 |
| 1/381 | " | " | " | " 10, | 123 | " | 478 |
| 1/382 | " | " | " | " | 125 | " | 479 |
| 1/383 | " | " | " | " | 127 | " | 480 |
| 1/384 | " | " | " | " 11, | 129 | " | 481 |
| 1/385 | 243½ | " | " | " | 131 | " | 482 |
| 1/386 | 441 6/10 | " | " | " | 133 | " | 483 |
| 1/387 | 446½ | " | " | " 10, | 1 | 8 | 484 |
| 1/388 | 640 | " | " | " 17, | 3 | " | 485 |
| 1/389 | " | " | " | " | 5 | " | 486 |
| 1/390 | " | " | " | " | 7 | " | 487 |
| 1/391 | " | " | " | " | 9 | " | 488 |
| 1/392 | " | " | " | " 18, | 11 | " | 489 |
| 1/393 | " | " | " | " | 13 | " | 490 |
| 1/394 | " | " | " | " | 15 | " | 491 |
| 1/395 | " | " | " | " | 17 | " | 492 |
| 1/396 | " | " | " | " | 19 | " | 493 |
| 1/397 | " | " | " | " 29, | 21 | " | 494 |
| 1/398 | " | " | " | " 12, | 23 | " | 495 |
| 1/399 | " | " | " | " 30, | 25 | " | 496 |
| 1/400 | 448 6/10 | " | " | " 29, | 27 | " | 497 |
| 1/401 | 451 | " | " | " 31, | 29 | " | 498 |
| 1/402 | 640 | " | " | Feb. 3, 1890 | 31 | " | 499 |
| 1/403 | " | " | " | " 4, | 33 | " | 500 |
| 1/404 | " | " | " | " | 35 | " | 501 |
| 1/405 | " | " | " | " | 37 | " | 502 |
| 1/406 | " | " | " | " | 39 | " | 503 |
| 1/407 | " | " | " | ..... | " 41 | " | 504 |
| 1/408 | " | " | " | ..... | " 43 | " | 505 |
| 1/409 | " | " | " | ..... | " 45 | " | 506 |
| 1/410 | " | " | " | ..... | " 47 | " | 507 |
| 1/411 | " | " | " | ..... | " 49 | " | 508 |
| 1/412 | " | " | " | ..... | " 51 | " | 509 |
| 15 | | | | | | | |
| 1/413 | " | " | " | " | " 53 | " | 510 |
| 1/414 | " | " | " | " | " 55 | " | 511 |
| 1/415 | " | " | " | " | " 57 | " | 512 |

BLEED THROUG

"EXHIBIT B."

Certificate-, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the centre of a red sandstone culvert, it being the first one east of Buck branch, being 27 miles and 47 feet of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1/416 | 640 | July 17, 1874 | Presidio county | Jan. 16, 1890 | 59 | 8 | 513 | G. H. & S. A. R. R. Co. |
| 1/417 | 453 4/10 | " | Presidio " | " | 61 | " | 514 | " |
| 1/418 | 274 1/10 | " | Presidio " | " | 63 | " | 515 | " |
| 1/419 | 640 | " | Presidio " | " | 65 | " | 516 | " |
| 1/420 | " | " | Presidio " | " | 67 | " | 517 | " |
| 1/421 | " | " | Presidio " | " | 69 | " | 518 | " |
| 1/422 | " | " | Presidio " | " | 71 | " | 519 | " |
| 1/423 | " | " | Presidio " | " | 73 | " | 520 | " |
| 1/424 | " | " | Presidio " | 17, | 75 | " | 521 | " |
| 1/425 | " | " | Presidio " | " | 77 | " | 522 | " |
| 1/426 | " | " | Presidio " | " | 79 | " | 523 | " |
| 1/427 | " | " | Presidio " | " | 81 | " | 524 | " |
| 1/428 | " | " | Presidio " | 16, | 83 | " | 525 | " |
| 1/429 | " | " | Presidio " | " | 85 | " | 526 | " |
| 1/430 | " | " | Presidio " | " | 87 | " | 527 | " |
| 1/431 | " | " | Presidio " | " | 89 | " | 528 | " |
| 1/432 | " | " | Presidio " | 17, | 91 | " | 529 | " |
| 1/433 | " | " | Presidio " | " | 93 | " | 530 | " |
| 1/434 | " | " | Presidio " | " | 95 | " | 531 | " |
| 1/435 | " | " | Presidio " | " | 97 | " | 532 | " |
| 1/436 | " | " | Presidio " | " | 99 | " | 533 | " |
| 1/437 | " | " | Presidio " | " | 101 | " | 534 | " |
| 1/438 | " | " | Presidio " | " | 103 | " | 535 | " |
| 1/439 | " | " | Presidio " | " | 105 | " | 536 | " |
| 16 | | | | | | | | |
| 1/440 | " | " | Presidio " | " | 107 | " | 537 | " |
| 1/441 | " | " | Presidio " | 18, | 109 | " | 538 | " |
| 1/442 | " | " | Presidio " | " | 111 | " | 539 | " |
| 1/443 | " | " | Presidio " | " | 113 | " | 540 | " |
| 1/444 | " | " | Presidio " | " | 115 | " | 541 | " |
| 1/445 | " | " | Presidio " | " | 117 | " | 542 | " |
| 1/446 | " | " | Presidio " | " | 119 | " | 543 | " |
| 1/447 | " | " | Presidio " | " | 121 | " | 544 | " |
| 1/448 | " | " | Presidio " | " | 123 | " | 545 | " |
| 1/449 | " | " | Presidio " | " | 125 | " | 546 | " |
| 1/450 | " | " | Presidio " | " | 127 | " | 547 | " |
| 1/451 | 501 | " | Presidio " | " | 129 | " | 548 | " |
| 1/452 | 640 | " | Presidio " | " | 131 | " | 549 | " |
| 1/453 | " | " | Presidio " | " | 133 | " | 550 | " |
| 1/454 | " | " | Presidio " | " | 135 | " | 551 | " |
| 1/455 | " | " | Presidio " | " | 137 | " | 552 | " |
| 1/456 | " | " | Presidio " | 20, | 139 | " | 553 | " |
| 1/457 | " | " | Presidio " | " | 141 | " | 554 | " |
| 1/458 | 280 7/10 | " | Presidio " | " | 143 | " | 555 | " |
| 1/459 | 447 8/10 | " | Presidio " | " | 145 | " | 556 | " |
| 1/460 | 640 | " | Presidio " | " | 147 | " | 557 | " |



POOR COPY

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, the first one east of Buck branch, being 27 miles and 47 feet of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1/461 | 640 | July 17, 1874 | Presidio county | Jan. 20, 1890 | 149 | 8 | 558 | G. H. & S. A. R. R. Co. |
| 1/462 | " | " | Presidio " | 28, | 151 | " | 559 | " |
| 1/463 | " | " | Presidio " | " | 153 | " | 560 | |
| 1/464 | " | " | Presidio " | " | 155 | " | 561 | |
| 1/465 | " | " | Presidio " | " | 157 | " | 562 | |
| 17 | | | | | | | | |
| 1/466 | " | " | Presidio " | " | 159 | " | 563 | |
| 1/467 | " | " | Presidio " | " | 161 | " | 564 | |
| 1/468 | " | " | Presidio " | " | 163 | " | 565 | |
| 1/469 | " | " | Presidio " | " | 165 | " | 566 | |
| 1/470 | " | " | Presidio " | " | 167 | " | 567 | |
| 1/471 | " | " | Presidio " | " | 169 | " | 568 | |
| 1/472 | " | " | Presidio " | " | 171 | " | 569 | |
| 1/473 | " | " | Presidio " | " | 173 | " | 570 | |
| 1/474 | " | " | Presidio " | " | 175 | " | 571 | |
| 1/475 | " | " | Presidio " | " | 177 | " | 572 | |
| 1/476 | " | " | Presidio " | " | 179 | " | 573 | |
| 1/477 | " | " | Presidio " | " | 181 | " | 574 | |
| 1/478 | " | " | Presidio " | " | 183 | " | 575 | |
| 1/479 | " | " | Presidio " | " | 185 | " | 576 | |
| 1/480 | " | " | Presidio " | " | 187 | " | 577 | |
| 1/481 | " | " | Presidio " | " | 189 | " | 578 | |
| 1/482 | " | " | Presidio " | " | 191 | " | 579 | |
| 1/483 | " | " | Presidio " | " | 193 | " | 580 | |
| 1/484 | " | " | Presidio " | " | 195 | " | 581 | |
| 1/485 | " | " | Presidio " | " | 197 | " | 582 | |
| 1/486 | " | " | Presidio " | " | 199 | " | 583 | |
| 1/487 | " | " | Presidio " | " | 201 | " | 584 | |
| 1/488 | " | " | Presidio " | " | 203 | " | 585 | |
| 1/489 | " | " | Presidio " | " | 205 | " | 586 | |
| 1/490 | " | " | Presidio " | " | 207 | " | 587 | |
| 1/491 | " | " | Presidio " | " | 209 | " | 588 | |
| 1/492 | " | " | Presidio " | " | 211 | " | 589 | |
| 1/493 | " | " | Presidio " | " | 213 | " | 590 | |
| 1/494 | " | " | Presidio " | " | 215 | " | 591 | |
| 1/495 | " | " | Presidio " | " | 217 | " | 592 | |
| 1/496 | " | " | Presidio " | " | 219 | " | 593 | |
| 1/497 | " | " | Presidio " | " | 221 | " | 594 | |
| 1/498 | " | " | Presidio " | " | 223 | " | 595 | |
| 1/499 | " | " | Presidio " | " | 225 | " | 596 | |
| 1/500 | " | " | Presidio " | " | 227 | " | 597 | |
| 1/501 | " | " | Presidio " | " | 229 | " | 598 | |
| 1/502 | " | " | Presidio " | " | 231 | " | 599 | |
| 1/503 | " | " | Presidio " | " | 233 | " | 600 | |
| 18 | | | | | | | | |
| 1/504 | " | " | Presidio " | " | 235 | " | 601 | |
| 1/505 | " | " | Presidio " | " | 237 | " | 602 | |

BLEED THROUG

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the western sill of the western approach to bridge over the West Navidad river and ending at the center of a red sandstone culvert, being the first one east of "Buck branch," being 27 miles and 47 feet of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/506 | 640 | July 17, 1874 | Presidio county ..... | " 239 | 8 | 603 |
| 1/507 | " | " | " ..... | " 241 | " | 604 |
| 1/508 | " | " | " ..... | " 243 | " | 605 |
| 1/509 | " | " | " ..... | " 245 | " | 606 |
| 1/510 | " | " | " ..... | " 247 | " | 607 |
| 1/511 | " | " | " ..... | " 249 | " | 608 |
| 1/512 | " | " | " ..... | " 251 | " | 609 |
| 1/513 | " | " | " ..... | " 253 | " | 610 |
| 1/514 | " | " | " ..... | " 255 | " | 611 |
| 1/515 | " | " | " ..... | " 257 | " | 612 |
| 1/516 | " | " | " ..... | " 259 | " | 613 |
| 1/517 | " | " | " ..... | " 261 | " | 614 |
| 1/518 | " | " | " ..... | " 263 | " | 615 |
| 1/519 | " | " | " ..... | " 265 | " | 616 |
| 1/520 | " | " | " ..... | " 267 | " | 617 |
| 1/521 | " | " | " ..... | " 269 | " | 618 |
| 1/522 | " | " | " ..... | " 271 | " | 619 |
| 1/523 | " | " | " ..... | " 273 | " | 620 |
| 1/524 | " | " | " ..... | " 275 | " | 621 |
| 1/525 | " | " | " ..... | " 277 | " | 622 |
| 1/526 | " | " | " ..... | " 279 | " | 623 |
| 1/527 | " | " | " ..... | " 281 | " | 624 |
| 1/528 | " | " | " ..... | " 283 | " | 625 |
| 1/529 | " | " | " ..... | " 285 | " | 626 |
| 1/530 | " | " | " ..... | " 287 | " | 627 |
| 19 | | | | | | |
| 1/531 | " | " | " ..... | " 289 | " | 628 |
| 1/532 | " | " | " ..... | " 291 | " | 629 |
| 1/533 | " | " | " ..... | " 293 | " | 630 |
| 1/534 | " | " | " ..... | " 295 | " | 631 |
| 1/535 | " | " | " ..... | " 297 | " | 632 |
| 1/536 | " | " | " ..... | " 299 | " | 633 |
| 1/537 | " | " | " ..... | " 301 | " | 634 |
| 1/538 | " | " | " ..... | " 303 | " | 635 |
| 1/539 | " | " | " ..... | " 305 | " | 636 |
| 1/540 | " | " | " ..... | " 307 | " | 637 |
| 1/541 | " | " | " ..... | " 309 | " | 638 |
| 1/542 | " | " | " ..... | " 311 | " | 639 |
| 1/543 | " | " | " ..... | " 313 | " | 640 |
| 1/544 | " | " | " ..... | " 316 | " | 641 |
| 1/545 | " | " | " ..... | " 317 | " | 642 |
| 1/546 | " | " | " ..... | " 319 | " | 643 |
| 1/547 | " | " | " ..... | " 321 | " | 644 |
| 1/548 | " | " | " ..... | " 323 | " | 645 |
| 1/549 | " | " | " ..... | " 325 | " | 646 |
| 1/550 | " | " | " ..... | " 327 | " | 647 |

POOR COPY

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, being the first one east of "Buck branch," being 27 miles and 47 feet of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/551 | 640 | July 17, 1874 | Presidio county ..... | " 329 | 8 | 648 |
| 1/552 | " | " | " ..... | " 331 | ", | 649 |
| 1/553 | " | " | " ..... | " 333 | " | 650 |
| 1/554 | " | " | " ..... | " 335 | " | 651 |
| 1/555 | " | " | " ..... | " 337 | " | 652 |
| 1/556 | " | " | " ..... | " 339 | " | 653 |
| 20 | | | | | | |
| 1/557 | " | " | " ..... | " 341 | " | 654 |
| 1/558 | " | " | " ..... | " 343 | " | 655 |
| 1/559 | " | " | " ..... | " 345 | " | 656 |
| 1/560 | " | " | " ..... | " 347 | " | 657 |
| 1/561 | " | " | " ..... | " 349 | " | 658 |
| 1/562 | " | " | " ..... | " 351 | " | 659 |
| 1/563 | " | " | " ..... | " 353 | " | 660 |
| 1/564 | " | " | " ..... | " 355 | " | 661 |
| 1/565 | " | " | " ..... | " 357 | " | 662 |
| 1/566 | " | " | " ..... | " 359 | " | 663 |
| 1/567 | " | " | " ..... | " 361 | " | 664 |
| 1/568 | " | " | " ..... | " 363 | " | 665 |
| 1/569 | " | " | " ..... | " 365 | " | 666 |
| 1/570 | " | " | " ..... | " 367 | " | 667 |
| 1/571 | " | " | " ..... | " 369 | " | 668 |
| 1/572 | " | " | " ..... | " 371 | " | 669 |
| 1/573 | " | " | " ..... | " 373 | " | 670 |
| 1/574 | " | " | " ..... | " 375 | " | 671 |
| 1/575 | " | " | " ..... | " 377 | " | 672 |
| 1/576 | " | " | " ..... | " 379 | " | 673 |
| 1/577 | " | " | " ..... | " 381 | " | 674 |
| 1/578 | " | " | " ..... | " 383 | " | 675 |
| 1/579 | " | " | " ..... | " 385 | " | 676 |
| 1/580 | " | " | " ..... | " 387 | " | 677 |
| 1/581 | " | " | " ..... | " 389 | " | 678 |
| 1/582 | " | " | " ..... | " 391 | " | 679 |
| 1/583 | " | " | " ..... | " 393 | " | 680 |
| 1/584 | " | " | " ..... | " 395 | " | 681 |
| 1/585 | " | " | " ..... | " 397 | " | 682 |
| 1/586 | " | " | " ..... | " 399 | " | 683 |
| 1/587 | " | " | " ..... | " 401 | " | 684 |
| 1/588 | " | " | " ..... | " 403 | " | 685 |
| 1/589 | " | " | " ..... | " 405 | " | 686 |
| 1/590 | " | " | " ..... | " 407 | " | 687 |
| 1/591 | " | " | " ..... | " 409 | " | 688 |
| 1/592 | " | " | " ..... | " 411 | " | 689 |
| 1/593 | " | " | " ..... | " 413 | " | 690 |
| 21 | | | | | | |
| 1/594 | " | " | " ..... | " 415 | " | 691 |
| 1/595 | " | " | " ..... | " 417 | " | 692 |

BLEED THROUG

Certificates, with siding- included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, being the first one east of "Buck branch," being 27 miles and 47 feet of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/596 | 640 | July 17, 1874 | Presidio county | " 419 | 8 | 693 |
| 1/597 | " | " | " | " 421 | " | 694 |
| 1/598 | " | " | " | " 423 | " | 695 |
| 1/599 | " | " | " | " 425 | " | 696 |
| 1/600 | " | " | " | " 427 | " | 697 |
| 1/601 | " | " | " | " 429 | " | 698 |
| 1/602 | " | " | " | " 431 | " | 699 |
| 1/603 | " | " | " | " 433 | " | 700 |
| 1/604 | " | " | " | " 435 | " | 701 |
| 1/605 | " | " | " | " 437 | " | 702 |
| 1/606 | " | " | " | " 439 | " | 703 |
| 1/607 | " | " | " | " 441 | " | 704 |
| 1/608 | " | " | " | " 443 | " | 705 |
| 1/609 | " | " | " | " 445 | " | 706 |
| 1/610 | " | " | " | " 447 | " | 707 |
| 1/611 | " | " | " | " 449 | " | 708 |
| 1/612 | " | " | " | " 451 | " | 709 |
| 1/613 | " | " | " | " 453 | " | 710 |
| 1/614 | " | " | " | " 455 | " | 711 |
| 1/615 | " | " | " | " 457 | " | 712 |
| 1/616 | " | " | " | " 459 | " | 713 |
| 1/617 | " | " | " | " 461 | " | 714 |
| 1/618 | " | " | " | " 463 | " | 715 |
| 1/619 | " | " | " | " 465 | " | 716 |
| 1/620 | " | " | " | " 467 | " | 717 |
| 22 | | | | | | |
| 1/621 | " | " | " | " 469 | " | 718 |
| 1/622 | " | " | " | " 471 | " | 719 |
| 1/623 | " | " | " | " 473 | " | 720 |
| 1/624 | " | " | " | " 475 | " | 721 |
| 1/625 | " | " | " | " 477 | " | 722 |
| 1/626 | " | " | " | " 479 | " | 723 |
| 1/627 | " | " | " | " 481 | " | 724 |
| 1/628 | " | " | " | " 483 | " | 725 |
| 1/629 | " | " | " | " 485 | " | 726 |
| 1/630 | " | " | " | " 487 | " | 727 |
| 1/631 | " | " | " | " 489 | " | 728 |
| 1/632 | " | " | " | " 491 | " | 729 |
| 1/633 | " | " | " | " 493 | " | 730 |
| 1/634 | " | " | " | " 495 | " | 731 |
| 1/635 | " | " | " | " 497 | " | 732 |
| 1/636 | " | " | " | " 499 | " | 733 |
| 1/637 | " | " | " | " 501 | " | 734 |
| 1/638 | " | " | " | " 503 | " | 735 |
| 1/639 | " | " | " | " 505 | " | 736 |
| 1/640 | " | " | " | " 507 | " | 737 |

POOR COPY

Certificates, *including* with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, it being the first one east of "Buck branch," being 27 miles and 47 feet of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/641 | 640 | July 17, 1874 | Presidio county ..... | " 509 | 8 | 738 |
| 1/642 | " | " | " ..... | " 511 | " | 739 |
| 1/643 | " | " | " ..... | " 513 | " | 740 |
| 1/644 | " | " | " ..... | " 515 | " | 741 |
| 1/645 | " | " | " .... | " 517 | " | 742 |
| 23 | | | | | | |
| 1/646 | " | " | " ..... | " 519 | " | 743 |
| 1/647 | " | " | " ..... | " 521 | " | 744 |
| 1/648 | " | " | " ..... | " 523 | " | 745 |
| 1/649 | " | " | " ..... | " 525 | " | 746 |
| 1/650 | " | " | " ..... | " 527 | " | 747 |
| 1/651 | " | " | " ..... | " 529 | " | 748 |
| 1/652 | " | " | Brewster county..... | " 531 | " | 490 |
| 1/653 | " | " | " ..... | " 533 | " | 491 |
| 1/654 | " | " | " ..... | " 535 | " | 492 |
| 1/655 | " | " | " ..... | " 537 | " | 493 |
| 1/656 | " | " | " ..... | " 539 | " | 494 |
| 1/657 | " | " | " ..... | " 541 | " | 495 |
| 1/658 | " | " | " ..... | " 543 | " | 496 |
| 1/659 | " | " | " ..... | " 545 | " | 497 |
| 1/660 | " | " | " ..... | " 547 | " | 498 |
| 1/661 | " | " | " ..... | " 549 | " | 499 |
| 1/662 | " | " | " ..... | " 551 | " | 500 |
| 1/663 | " | " | " ..... | " 553 | " | 501 |
| 1/664 | " | " | " ..... | " 555 | " | 502 |
| 1/665 | " | " | " ..... | " 557 | " | 503 |
| 1/666 | " | " | " ..... | " 559 | " | 504 |
| 1/667 | " | " | " ..... | " 561 | " | 505 |
| 1/668 | " | " | " ..... | " 563 | " | 506 |
| 1/669 | " | " | " ..... | " 565 | " | 507 |
| 1/670 | " | " | " ..... | " 567 | " | 508 |
| 1/671 | " | " | " ..... | " 569 | " | 509 |
| 1/672 | " | " | " ..... | " 571 | " | 510 |
| 1/673 | " | " | " ..... | " 573 | " | 511 |
| 1/674 | " | " | " ..... | " 575 | " | 512 |
| 1/675 | " | " | " ..... | " 577 | " | 513 |
| 1/676 | " | " | " ..... | " 579 | " | 514 |
| 1/677 | " | " | " ..... | " 581 | " | 515 |
| 1/678 | " | " | " ..... | " 583 | " | 516 |
| 1/679 | " | " | " ..... | " 585 | " | 517 |
| 1/680 | " | " | " ..... | " 587 | " | 518 |
| 1/681 | " | " | " ..... | " 589 | " | 519 |
| 1/682 | " | " | " ..... | " 591 | " | 520 |
| 1/683 | " | " | " ..... | " 593 | " | 521 |
| 24 | | | | | | |
| 1/684 | " | " | " ..... | " 595 | " | 522 |
| 1/685 | " | " | " ..... | " 597 | " | 523 |

BLEED THROU

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, it being the first one east of "Buck branch," being 27 miles and 47 feet of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/686 | 640 | July 17, 1874 | Brewster county..... | 599 | 8 | 524 |
| 1/687 | " | " | " " ..... | 601 | " | 525 |
| 1/688 | " | " | " " ..... | 603 | " | 526 |
| 1/689 | " | " | " " ..... | 1 | 9 | 352 |
| 1/690 | " | " | " " ..... | 3 | " | 353 |
| 1/691 | " | " | " " ..... | 5 | " | 354 |
| 1/692 | " | " | ½ Jeff Davis " ....<br>½ Brewster " .... | 7 | " | 355 |
| 1/693 | " | " | Jeff Davis " ..... | 9 | " | 200 |
| 1/694 | " | " | " " ..... | 11 | " | 201 |
| 1/695 | " | " | " " ..... | 13 | " | 202 |
| 1/696 | " | " | " " ..... | 15 | " | 203 |
| 1/697 | " | " | " " ..... | 17 | " | 204 |
| 1/698 | " | " | Brewster " ..... | 19 | " | 356 |
| 1/699 | " | " | " " ..... | 21 | " | 357 |
| 1/700 | " | " | " " ..... | 23 | " | 358 |
| 1/701 | " | " | " " ..... | 25 | " | 359 |
| 1/702 | " | " | " " ..... | 27 | " | 360 |
| 1/703 | " | " | " " ..... | 29 | " | 361 |
| 1/704 | " | " | " " ..... | 31 | " | 362 |
| 1/705 | " | " | " " ..... | 33 | " | 363 |
| 1/706 | " | " | " " ..... | 35 | " | 364 |
| 1/707 | " | " | " " ..... | 37 | " | 365 |
| 1/708 | " | " | " " ..... | 39 | " | 366 |
| 25 | | | | | | |
| 1/709 | " | " | " " ..... | 41 | " | 367 |
| 1/710 | " | " | " " ..... | 43 | " | 368 |
| 1/711 | " | " | " " ..... | 45 | " | 369 |
| 1/712 | " | " | " " ..... | 47 | " | 370 |
| 1/713 | " | " | " " ..... | 49 | " | 371 |
| 1/714 | " | " | " " ..... | 51 | " | 372 |
| 1/715 | " | " | " " ..... | 53 | " | 373 |
| 1/716 | " | " | " " ..... | 55 | " | 374 |
| 1/717 | " | " | " " ..... | 57 | " | 375 |
| 1/718 | " | " | ½ Brewster & ....<br>½ Jeff Davis " .... | 59 | " | 376 |
| 1/719 | " | " | Jeff Davis " ..... | 61 | " | 206 |
| 1/720 | " | " | " " ..... | 63 | " | 207 |
| 1/721 | " | " | " " ..... | 65 | " | 208 |
| 1/722 | " | " | " " ..... | 67 | " | 209 |
| 1/723 | " | " | " " ..... | 69 | " | 210 |
| 1/724 | " | " | " " ..... | 71 | " | 211 |
| 1/725 | " | " | " " ..... | 73 | " | 212 |
| 1/726 | " | " | " " ..... | 75 | " | 213 |
| 1/727 | " | " | " " ..... | 77 | " | 214 |
| 1/728 | " | " | " " ..... | 79 | " | 215 |
| 1/729 | " | " | " " ..... | 81 | " | 216 |
| 1/730 | " | " | " and ....<br>½ Brewster " .... | 83 | " | 145-<br>377 |

POOR COPY

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. Co. for the section of road beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, it being the first one east of Buck's branch, being 27 miles and 47 feet of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/731 | 640 | July 17, 1874 | Brewster.... / ½ Jeff Davis Co.... | " 85 | 9 | 378-146 |
| 1/732 | " | " | Brewster county..... | " 87 | " | 379 |
| 1/733 | " | " | " " ..... | " 89 | " | 380 |
| 26 | | | | | | |
| 1/734 | " | " | " " ..... | " 91 | " | 381 |
| 1/735 | " | " | " " ..... | " 93 | " | 382 |
| 1/736 | " | " | " " ..... | " 95 | " | 383 |
| 1/737 | " | " | " " ..... | " 97 | " | 384 |
| 1/738 | " | " | " " ..... | " 99 | " | 385 |
| 1/739 | " | " | " " ..... | " 101 | " | 386 |
| 1/740 | " | " | " " ..... | " 103 | " | 387 |
| 1/741 | " | " | " " ..... | " 105 | " | 388 |
| 1/742 | " | " | " " ..... | " 107 | " | 389 |
| 1/743 | " | " | " " ..... | " 109 | " | 390 |
| 1/744 | " | " | " " ..... | " 111 | " | 391 |
| 1/745 | " | " | " " ..... | " 113 | " | 392 |
| 1/746 | " | " | " " ..... | " 115 | " | 393 |
| 1/747 | " | " | " " ..... | " 117 | " | 394 |
| 1/748 | " | " | " " ..... | " 119 | " | 395 |
| 1/749 | " | " | " " ..... | " 121 | " | 396 |
| 1/750 | " | " | " " ..... | " 123 | " | 397 |
| 1/751 | " | " | " " ..... | " 125 | " | 398 |
| 1/752 | " | " | " " ..... | " 127 | " | 399 |
| 1/753 | " | " | " " ..... | " 129 | " | 400 |
| 1/754 | " | " | " " ..... | " 131 | " | 401 |
| 1/755 | " | " | Brewster " .... / ½ Jeff Davis " .... | " 133 | " | 402-147 |
| 1/756 | " | " | Jeff Davis " ..... | " 135 | " | 148 |
| 1/757 | " | " | " " ..... | " 137 | " | 149 |
| 1/758 | " | " | " " ..... | " 139 | " | 150 |
| 1/759 | " | " | " " ..... | " 141 | " | 151 |
| 1/760 | " | " | " " ..... | " 143 | " | 152 |
| 1/761 | " | " | " " ..... | " 145 | " | 153 |
| 1/762 | " | " | " " ..... | " 147 | " | 154 |
| 1/763 | " | " | " " ..... | " 149 | " | 155 |
| 1/764 | " | " | Brewster " ..... | " 151 | " | 403 |
| 1/765 | " | " | " " ..... | " 153 | " | 404 |
| 1/766 | " | " | " " ..... | " 155 | " | 405 |
| 1/767 | " | " | " " ..... | " 157 | " | 406 |
| 1/768 | " | " | " " ..... | " 159 | " | 407 |
| 1/769 | " | " | " " ..... | " 161 | " | 408 |
| 1/770 | " | " | " " ..... | " 163 | " | 409 |
| 27 | | | | | | |
| 1/771 | " | " | " " ..... | " 165 | " | 410 |
| 1/772 | " | " | " " ..... | " 167 | " | 411 |
| 1/773 | " | " | " " ..... | " 169 | " | 412 |
| 1/774 | " | " | " " ..... | " 171 | " | 413 |
| 1/775 | " | " | " " ..... | " 173 | " | 414 |

BLEED THR

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, it being the first one east of "Buck's branch," being 27 miles and 47 — of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/776 | 640 | July 17, 1874 | Brewster county.... | " 175 | 9 | 415 |
| 1/777 | " | " | " " .... | " 177 | " | 416 |
| 1/778 | " | " | " " .... | " 179 | " | 417 |
| 1/779 | " | " | " " .... | " 181 | " | 418 |
| 1/780 | " | " | " " .... | " 183 | " | 419 |
| 1/781 | " | " | " " .... | " 185 | " | 420 |
| 1/782 | " | " | " " .... | " 187 | " | 421 |
| 1/783 | " | " | " " .... | " 189 | " | 422 |
| 1/784 | " | " | " " .... | " 191 | " | 423 |
| 1/785 | " | " | " " ... | " 193 | " | 424 |
| 1/786 | " | " | " " .... | " 195 | " | 425 |
| 1/787 | " | " | " " .... | " 197 | " | 426 |
| 1/788 | " | " | " " .... | " 199 | " | 427 |
| 1/789 | " | " | " " .... | " 201 | " | 428 |
| 1/790 | " | " | " " .... | " 203 | " | 429 |
| 1/791 | " | " | " " .... | " 205 | " | 430 |
| 1/792 | " | " | " " .... | " 207 | " | 431 |
| 1/793 | " | " | " " .... | " 209 | " | 432 |
| 1/794 | " | " | " " .... | " 211 | " | 433 |
| 1/795 | " | " | Jeff Davis & Brewster " .. | " 213 | " | 434-156 |
| 1/796 | " | " | Jeff Davis " .... | " 215 | " | 157 |
| 28 | | | | | | |
| 1/797 | " | " | Jeff Davis " .... | " 217 | " | 158 |
| 1/798 | " | " | " " .... | " 219 | " | 159 |
| 1/799 | " | " | " " .... | " 221 | " | 160 |
| 1/800 | " | " | " " .... | " 223 | " | 161 |
| 1/801 | " | " | Brewster " .... | " 1 | 10 | 276 |
| 1/802 | " | " | " " ... | " 3 | " | 277 |
| 1/803 | " | " | " " .... | " 5 | " | 278 |
| 1/804 | " | " | " " .... | " 7 | " | 279 |
| 1/805 | " | " | " " .... | " 9 | " | 280 |
| 1/806 | " | " | " " .... | " 11 | " | 281 |
| 1/807 | " | " | " " .... | " 13 | " | 282 |
| 1/808 | " | " | " " .... | " 15 | " | 283 |
| 1/809 | " | " | " " .... | " 17 | " | 284 |
| 1/810 | " | " | " " .... | " 19 | " | 285 |
| 1/811 | " | " | " " .... | " 21 | " | 286 |
| 1/812 | " | " | " " .... | " 23 | " | 287 |
| 1/813 | " | " | Kimble " .... | Sep. 9, 1876, 1 | E | 206 |
| 1/820 | " | " | San Saba " .... | " " " 1 | ..... | 500 |
| 1/831 | " | " | Val Verde " .... | Unpatented 15 | A2 | 882 |
| 1/835 | " | " | Crockett " .... | " 49 | " | 1806 |
| 1/840 | " | " | " " .... | " 51 | " | 1807 |
| 1/843 | " | " | " " .... | " 53 | " | 1808 |
| 1/846 | " | " | " " .... | " 55 | " | 1809 |
| 1/851 | " | " | McCulloch " .... | " 47 | ..... | 426 |



UGH POOR COPY

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. Company for the section of road beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, being the first one east of Buck branch, being 27 miles and 47 feet of main track and 3,800 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/855 | 640 | July 17, 1874 | Kimble county | Jan'y 13, 1877 | 15 | G | 214 |
| 1/858 | " | " | Pecos " | ..... | " 1 | A2 | 1944 |

BLEED THROU

29

EXHIBIT "C."

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at a red sandstone culvert, the first one east of Buck's branch, and ending at the turn-table at Luling, being 16 miles and 1,610 feet of main track and one mile and 968 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 859 | 640 | May 17, 1875 | Brewster county..... | " 25 | 10 | 288 |
| 860 | " | " | " " ..... | " 27 | " | 289 |
| 861 | " | " | " " ..... | " 29 | " | 290 |
| 862 | " | " | " " ..... | " 31 | " | 291 |
| 863 | " | " | 1/2 Brewster " ....<br>1/2 Jeff Davis " .... | " 33 | " | 292-162 |
| 864 | " | " | Jeff Davis " ..... | " 35 | " | 163 |
| 865 | " | " | " " ..... | " 37 | " | 164 |
| 866 | " | " | " " ..... | " 39 | " | 165 |
| 867 | " | " | " " ..... | " 41 | " | 166 |
| 868 | " | " | " " ..... | " 43 | " | 167 |
| 869 | " | " | 1/10 Jeff Davis " ....<br>9/10 Pecos " .... | " 45 | " | 168-4681 |
| 870 | " | " | Jeff Davis " ..... | " 47 | " | 169 |
| 871 | " | " | " " ..... | " 49 | " | 170 |
| 872 | " | " | " " ..... | " 51 | " | 171 |
| 873 | " | " | " " ..... | " 53 | " | 172 |
| 874 | " | " | 1/2 Brewster " ....<br>1/2 Jeff Davis " .... | " 55 | " | 173-293 |
| 875 | " | " | Brewster " ..... | " 57 | " | 294 |
| 876 | " | " | " " ..... | " 59 | " | 295 |
| 877 | " | " | " " ..... | " 61 | " | 296 |
| 878 | " | " | " " ..... | " 63 | " | 297 |
| 879 | " | " | " " ..... | " 65 | " | 298 |
| 880 | " | " | " " ..... | " 67 | " | 299 |
| 881 | " | " | " " ..... | " 69 | " | 300 |
| 882 | " | " | " " ..... | " 71 | " | 301 |
| 883 | " | " | " " ..... | " 73 | " | 302 |
| 884 | " | " | " " ..... | " 75 | " | 303 |
| 885 | " | " | " " ..... | " 77 | " | 304 |
| 886 | " | " | " " ..... | " 79 | " | 305 |
| 887 | " | " | " " ..... | " 81 | " | 306 |
| 888 | " | " | " " ..... | " 83 | " | 307 |

30

| | | | | | | |
|---|---|---|---|---|---|---|
| 889 | " | " | " " ..... | " 85 | " | 308 |
| 890 | " | " | " " ..... | " 87 | " | 309 |
| 891 | " | " | " " ..... | " 89 | " | 310 |
| 892 | " | " | " " ..... | " 91 | " | 311 |
| 893 | " | " | " " ..... | " 93 | " | 312 |
| 894 | " | " | " " ..... | " 95 | " | 313 |
| 895 | " | " | " " ..... | " 97 | " | 314 |
| 896 | " | " | " " ..... | " 99 | " | 315 |
| 897 | " | " | " " ..... | " 101 | " | 316 |
| 898 | " | " | " " ..... | " 103 | " | 317 |
| 899 | " | " | " " ..... | " 105 | " | 318 |
| 900 | " | " | " " ..... | " 107 | " | 319 |
| 901 | " | " | " " ..... | " 109 | " | 320 |
| 902 | " | " | " " ..... | " 111 | " | 321 |
| 903 | " | " | " " ..... | " 113 | " | 322 |

SH POOR COPY

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the red sandstone culvert, the first one east of Buck's branch, and ending at the turn-table at Luling, being 16 miles and 4,610 feet of main track and 968 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 904 | 640 | May 17, 1875 | Brewster county..... | " 115 | 10 | 323 |
| 905 | " | " | ½ Brewster " ....<br>½ Jeff Davis " .... | " 117 | " | 324–174 |
| 906 | " | " | ½ Brewster " ....<br>½ Jeff Davis " .... | " 119 | " | 325–175 |
| 907 | " | " | ½ Pecos " ....<br>½ Jeff Davis " .... | " 121 | " | 176–4682 |
| 908 | " | " | Pecos " ..... | " 123 | " | 4420 |
| 909 | " | " | " " ..... | " 125 | " | 4421 |
| 910 | " | " | " " ..... | " 127 | " | 4422 |
| 911 | " | " | " " ..... | " 129 | " | 4423 |
| 912 | " | " | " " ..... | " 131 | " | 4424 |
| 913 | " | " | ½ Brewster " ....<br>½ Pecos " .... | " 133 | " | 326–4679 |
| 914 | " | " | ½ Brewster " ....<br>½ Pecos " ... | " 135 | " | 327–4680 |
| 915 | " | " | Brewster " ..... | " 137 | " | 328 |
| 916 | " | " | " " ..... | " 139 | " | 329 |
| 31 | | | | | | |
| 917 | " | " | " " ..... | " 141 | " | 330 |
| 918 | " | " | " " ..... | " 143 | " | 331 |
| 919 | " | " | " " ..... | " 145 | " | 332 |
| 920 | " | " | " " ..... | " 147 | " | 333 |
| 921 | " | " | " " ..... | " 149 | " | 334 |
| 922 | " | " | " " ..... | " 151 | " | 335 |
| 923 | " | " | " " ..... | " 153 | " | 336 |
| 924 | " | " | " " ..... | " 155 | " | 337 |
| 925 | " | " | " " ..... | " 157 | " | 338 |
| 926 | " | " | " " ..... | " 159 | " | 339 |
| 927 | " | " | " " ..... | " 161 | " | 340 |
| 928 | " | " | " " ..... | " 163 | " | 341 |
| 929 | " | " | " " ..... | " 165 | " | 342 |
| 930 | " | " | " " ..... | " 167 | " | 343 |
| 931 | " | " | " " ..... | " 169 | " | 1404 |
| 932 | " | " | " " ..... | " 171 | " | 344 |
| 933 | " | " | " " ..... | " 173 | " | 1405 |
| 934 | " | " | " " ..... | " 175 | " | 345 |
| 935 | " | " | " " ..... | " 177 | " | 1406 |
| 936 | " | " | " " ..... | " 179 | " | 346 |
| 937 | " | " | " " ..... | " 181 | " | 1407 |
| 938 | " | " | " " ..... | " 183 | " | 347 |
| 939 | " | " | " " ..... | " 185 | " | 1408 |
| 940 | " | " | " " ..... | " 187 | " | 348 |
| 941 | " | " | " " ..... | " 189 | " | 1409 |
| 942 | " | " | " " ..... | " 191 | " | 349 |
| 943 | " | " | " " ..... | " 193 | " | 1410 |
| 944 | " | " | " " ..... | " 195 | " | 350 |
| 945 | " | " | " " ..... | " 197 | " | 1411 |
| 946 | " | " | " " ..... | " 199 | " | 351 |
| 947 | " | " | Pecos " ..... | " 201 | " | 4426 |
| 948 | " | " | " " ..... | " 203 | " | 4427 |

BLEED THROU

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at a red sandstone culvert, it being the first one east of Buck's branch, and ending at the turn-table at Luling, being 16 miles and 4,610 feet of main track and one mile and 968 feet of sidings.

32

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| #949 | 640 | May 17, 1875 | Pecos county..... | " 205 | 10 | 4428 |
| 950 | " | " | " " ..... | " 207 | " | 4429 |
| 951 | " | " | " " ..... | " 209 | " | 4430 |
| 952 | " | " | " " ..... | " 211 | " | 4431 |
| 953 | " | " | " " ..... | " 213 | " | 4432 |
| 954 | " | " | " " ..... | " 215 | " | 4433 |
| 955 | " | " | " " ..... | " 217 | " | 4434 |
| 956 | " | " | " " ..... | " 219 | " | 4435 |
| 957 | " | " | " " ..... | " 221 | " | 4436 |
| 958 | " | " | " " ..... | " 223 | " | 4437 |
| 959 | " | " | " " ..... | " 225 | " | 4438 |
| 960 | " | " | " " ..... | " 227 | " | 4439 |
| 961 | " | " | " " ..... | " 229 | " | 4440 |
| 962 | " | " | " " ..... | " 231 | " | 4441 |
| 963 | " | " | ½ Buchel " .... / ½ Brewster " .... | " 233 | " | 321-1412 |
| 964 | " | " | Buchel " ..... | " 235 | " | 322 |
| 965 | " | " | ½ Buchel " .... / ½ Brewster " .... | " 237 | " | 323-1413 |
| 966 | " | " | Buchel " ..... | " 239 | " | 324 |
| 967 | " | " | ½ Buchel " .... / ½ Brewster " .... | " 241 | " | 325-1414 |
| 968 | " | " | Buchel " ..... | " 243 | " | 326 |
| 969 | " | " | ½ Buchel " .... / ½ Brewster " .... | " 245 | " | 327-1399 |
| 970 | " | " | Buchel " ..... | " 247 | " | 328 |
| 971 | " | " | ½ Buchel " .... / ½ Brewster " .... | " 249 | " | 329-1400 |
| 972 | " | " | Buchel " ..... | " 251 | " | 330 |
| 973 | " | " | ½ Buchel " ... / ½ Brewster " .... | " 253 | " | 331-1401 |
| 974 | " | " | Buchel " ... | " 255 | " | 332 |
| 975 | " | " | ½ Buchel " .... / ½ Brewster " .... | " 257 | " | 333-1402 |
| 976 | " | " | ½ Buchel " .... / ½ Brewster " .... | " 259 | " | 334-1403 |
| 977 | " | " | Buchel " ..... | " 261 | " | 335 |
| 978 | " | " | " " ..... | " 263 | " | 336 |
| 979 | " | " | " " ..... | " 265 | " | 337 |
| 980 | " | " | " " .... | " 267 | " | 338 |
| 981 | " | " | " " ..... | " 269 | " | 339 |
| 982 | " | " | " " ..... | " 271 | " | 340 |
| 983 | " | " | " " ..... | " 273 | " | 341 |

33

| | | | | | | |
|---|---|---|---|---|---|---|
| 984 | " | " | " " ..... | " 275 | " | 342 |
| 985 | " | " | " " ..... | " 277 | " | 343 |
| 986 | " | " | " " ..... | " 279 | " | 344 |
| 987 | " | " | " " ..... | " 281 | " | 345 |
| 988 | " | " | " " ..... | " 283 | " | 346 |
| 989 | " | " | " " ..... | " 285 | " | 347 |
| 990 | " | " | " " ..... | " 287 | " | 348 |
| 991 | " | " | " " ..... | " 289 | " | 349 |
| 992 | " | " | " " ..... | " 291 | " | 350 |
| 993 | " | " | ½ Buchel " .... / ½ Pecos " .... | " 293 | " | 351-4673 |

POOR COPY

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at the red sandstone culvert, the first one east of Buck's branch, and ending at the turn-table at Luling, being 16 miles and 4,100 feet of main track and one mile and 968 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| #994 | 640 | May 17, 1875 | Pecos county .... / Buchel " .... | " 295 | 10 | 352–4674 |
| 995 | " | " | Pecos " .... / Buchel " .... | " 297 | " | 353–4675 |
| 996 | " | " | Pecos " ..... | " 299 | " | 4442 |
| 997 | " | " | " " ..... | " 301 | " | 4443 |
| 998 | " | " | " " ..... | " 303 | " | 4444 |
| 999 | " | " | " " ..... | " 305 | " | 4445 |
| 1000 | " | " | " " ..... | " 307 | " | 4446 |
| 1001 | " | " | " " ..... | " 309 | " | 4447 |
| 1002 | " | " | " " ..... | " 311 | " | 4448 |
| 1003 | " | " | " " ..... | " 313 | " | 4449 |
| 1004 | " | " | " " ..... | " 315 | 11 | 4450 |
| 1005 | " | " | " " ..... | " 1 | " | 4451 |
| 1006 | " | " | " " ..... | " 3 | " | 4452 |
| 1007 | " | " | " " ..... | " 5 | " | 4453 |
| 1008 | " | " | " " ..... | " 7 | " | 4454 |
| 1009 | " | " | Jeff Davis " ..... | " 9 | " | 177 |
| 1010 | " | " | " " ..... | " 11 | " | 178 |
| 1011 | " | " | " " ..... | " 13 | " | 179 |
| 34 | | | | | | |
| 1012 | " | " | " " ..... | " 15 | " | 180 |
| 1013 | " | " | " " ..... | " 17 | " | 217 |
| 1014 | " | " | " " ..... | " 19 | " | 218 |
| 1015 | " | " | " " ..... | " 21 | " | 219 |
| 1016 | " | " | " " ..... | " 23 | " | 220 |
| 1017 | " | " | " " ..... | " 25 | " | 221 |
| 1018 | " | " | " " ..... | " 27 | " | 222 |
| 1019 | " | " | " " ..... | " 29 | " | 223 |
| 1020 | " | " | " " ..... | " 31 | " | 224 |
| 1021 | " | " | " " ..... | " 33 | " | 225 |
| 1022 | " | " | " " ..... | " 35 | " | 226 |
| 1023 | " | " | " " ..... | " 37 | " | 227 |
| 1024 | " | " | Presidio " .... / Pecos " .... | " 39 | " | 1075–4455 |
| 1025 | " | " | Pecos " ..... | " 41 | " | 4456 |
| 1026 | " | " | " " ..... | " 43 | " | 4457 |
| 1027 | " | " | " " ..... | " 45 | " | 4458 |
| 1028 | " | " | " " ..... | " 47 | " | 4459 |
| 1029 | " | " | " " ..... | " 49 | " | 4460 |
| 1030 | " | " | " " ..... | " 51 | " | 4461 |
| 1031 | " | " | " " ..... | " 53 | " | 4462 |
| 1032 | " | " | " " ..... | " 55 | " | 4463 |
| 1033 | " | " | Jeff Davis " ..... | " 57 | " | 228 |
| 1034 | " | " | " " ..... | " 59 | " | 229 |
| 1035 | " | " | " " ..... | " 61 | " | 230 |
| 1036 | " | " | " " ..... | " 63 | " | 231 |
| 1037 | " | " | " " ..... | " 65 | " | 232 |
| 1038 | " | " | " " ..... | " 67 | " | 233 |

BLEED THROU

Certificates, with siding included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at a red sandstone culvert, the first one east of Buck's branch, and ending at the turn-table at Luling, being 16 miles and 4,610 feet of main track and one mile & 968 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| #1039 | 640 | May 17, 1875 | Jeff Davis county.... | " 69 | 11 | 234 |
| 35 | | | | | | |
| 1040 | " | " | " " ..... | " 71 | " | 235 |
| 1041 | " | " | " " ..... | " 73 | " | 236 |
| 1042 | " | " | " " ..... | " 75 | " | 237 |
| 1043 | " | " | " " ..... | " 77 | " | 238 |
| 1044 | " | " | " " ..... | " 79 | " | 239 |
| 1045 | " | " | 1/4 Presidio " ... / 3/4 Pecos " ... | " 81 | " | 1096-4464 |
| 1046 | " | " | Pecos " ..... | " 83 | " | 4465 |
| 1047 | " | " | " " ..... | " 85 | " | 4466 |
| 1048 | " | " | " " ..... | " 87 | " | 4467 |
| 1049 | " | " | " " ..... | " 89 | " | 4468 |
| 1050 | " | " | " " ..... | " 91 | " | 4469 |
| 1051 | " | " | " " ..... | " 93 | " | 4470 |
| 1052 | " | " | " " ..... | " 95 | " | 4471 |
| 1053 | " | " | " " ..... | " 97 | " | 4472 |
| 1054 | " | " | " " ..... | " 99 | " | 4473 |
| 1055 | " | " | " " ..... | " 101 | " | 4474 |
| 1056 | " | " | 7/10 Reeves " ... / 2/10 Pecos " ... / 1/10 Presidio " ... | " 103 | " | 250-4457 1107 |
| 1057 | " | " | Pecos " ..... | " 105 | " | 240 |
| 1058 | " | " | " " ..... | " 107 | " | 241 |
| 1059 | " | " | " " ..... | " 109 | " | 242 |
| 1060 | " | " | " " ..... | " 111 | " | 243 |
| 1061 | " | " | " " ..... | " 113 | " | 244 |
| 1062 | " | " | " " ..... | " 115 | " | 245 |
| 1063 | " | " | " " ..... | " 117 | " | 246 |
| 1064 | " | " | " " ..... | " 119 | " | 247 |
| 1065 | " | " | " " ..... | " 121 | " | 248 |
| 1066 | " | " | 1/10 Reeves " ... / 9/10 Jeff Davis " ... | " 123 | " | 249-251 |
| 1067 | " | " | Reeves " ..... | " 125 | " | 252 |
| 1068 | " | " | 3/4 Reeves " ... / 1/4 Pecos " .. | " 127 | " | 253-4578 |
| 1069 | " | " | Pecos " ..... | " 129 | " | 4475 |
| 1070 | " | " | " " ..... | " 131 | " | 4476 |
| 1071 | " | " | " " ..... | " 133 | " | 4477 |
| 1072 | " | " | " " ..... | " 135 | " | 4478 |
| 1073 | " | " | " " ..... | " 137 | " | 4479 |
| 1074 | " | " | " " ..... | " 139 | " | 4480 |
| 1075 | " | " | " " ..... | " 141 | " | 4481 |
| 1076 | " | " | " " ..... | " 143 | " | 4482 |
| 1077 | " | " | " " ..... | " 145 | " | 4405 |
| 36 | | | | | | |
| 1078 | " | " | Reeves " ..... | " 147 | " | 254 |
| 1079 | " | " | " " ..... | " 149 | " | 255 |
| 1080 | " | " | " " ..... | " 151 | " | 256 |
| 1081 | " | " | 1/4 Reeves " ... / 3/4 Jeff Davis " ... | " 153 | " | 257-250 |
| 1082 | " | " | Jeff Davis " ..... | " 155 | " | 251 |
| 1083 | " | " | " " ..... | " 157 | " | 252 |

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Certificates, with siding- included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at a red sandstone culvert, the first one east of "Buck's branch," and ending at the turn-table at Luling, being 16 miles and 4,610 feet of main track and one mile & 968 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1084 | 640 | May 17, 1875 | Jeff Davis county..... | " 159 | 11 | 253 |
| 1085 | " | " | " " ..... | " 161 | " | 254 |
| 1086 | " | " | " " ..... | " 163 | " | 255 |
| 1087 | " | " | " " ..... | " 165 | " | 256 |
| 1088 | " | " | ¾ Jeff Davis " ... / ¼ Reeves " ... | " 167 | " | 257-258 |
| 1089 | " | " | Reeves " ..... | " 169 | " | 259 |
| 1090 | " | " | " " ..... | " 171 | " | 260 |
| 1091 | " | " | " " ..... | " 173 | " | 261 |
| 1092 | " | " | ⅝ Reeves " ... / ⅜ Pecos " ... | " 175 | " | 262-4577 |
| 1093 | " | " | Pecos " ..... | " 177 | " | 4406 |
| 1094 | " | " | " " ..... | " 179 | " | 4407 |
| 1095 | " | " | " " ..... | " 181 | " | 4408 |
| 1096 | " | " | " " ..... | " 183 | " | 4409 |
| 1097 | " | " | " " ..... | " 185 | " | 4410 |
| 1098 | " | " | " " ..... | " 187 | " | 4411 |
| 1099 | " | " | " " ..... | " 189 | " | 4412 |
| 1100 | " | " | ½ Reeves " ... / ½ Presidio " ... | " 191 | " | 263-1151 |
| 1101 | " | " | Reeves " ..... | " 193 | " | 264 |
| 1102 | " | " | " " ..... | " 195 | " | 265 |
| 1103 | " | " | " " ..... | " 197 | " | 266 |
| 1104 | " | " | " " ..... | " 199 | " | 267 |
| 37 | | | | | | |
| 1105 | " | " | ½ Reeves " ... / ½ Jeff Davis " ... | " 201 | " | 268-258 |
| 1106 | " | " | Jeff Davis " ..... | " 203 | " | 259 |
| 1107 | " | " | " " ..... | " 205 | " | 260 |
| 1108 | " | " | " " ..... | " 207 | " | 1159 |
| 1109 | " | " | " " ..... | " 209 | " | 1160 |
| 1110 | " | " | ¾ Reeves " ... / ¼ Jeff Davis " ... | " 211 | " | 1161 |
| 1111 | " | " | Reeves " ..... | " 213 | " | 1162 |
| 1112 | " | " | " " ..... | " 215 | " | 1163 |
| 1113 | " | " | " " ..... | " 217 | " | 1164 |
| 1114 | " | " | " " ..... | " 219 | " | 1165 |
| 1115 | " | " | Presidio " ..... | " 221 | " | 1166 |
| 1116 | " | " | 1/5 Reeves " ... / 4/5 Pecos " ... | " 223 | " | 269-4576 |
| 1117 | " | " | Pecos " ..... | " 225 | " | 4413 |
| 1118 | " | " | " " ..... | " 227 | " | 4414 |
| 1119 | " | " | " " ..... | " 229 | " | 4415 |
| 1120 | " | " | " " ..... | " 231 | " | 4416 |
| 1121 | " | " | " " ..... | " 233 | " | 4417 |
| 1122 | " | " | " " ..... | " 235 | " | 4580 |
| 1123 | " | " | Reeves " ..... | " 237 | " | |
| 1124 | " | " | " " ..... | " 239 | " | |
| 1125 | " | " | " " ..... | " 241 | " | |
| 1126 | " | " | " " ..... | " 243 | " | |
| 1127 | " | " | " " ..... | " 245 | " | |
| 1128 | " | " | " " ..... | " 247 | " | |

BLEED THROUGH

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. for the section of road beginning at a red sandstone culvert, the first one east of Buck's branch, and ending at the turn-table at Luling, being 16 miles and 4,610 feet of main track and one mile & 968 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1129 | 640 | May 17, 1875 | ½ Jeff Davis... ½ Reeves Co. | ..... | " 249 | 11 | | |
| 1130 | " | " | Jeff Davis | ..... | " 251 | " | | |
| 38 | | | | | | | | |
| 1131 | " | " | " " | ..... | " 253 | " | | |
| 1132 | " | " | Reeves " | ..... | " 255 | " | | |
| 1133 | " | " | " " | ..... | " 257 | " | | |
| 1134 | " | " | " " | ..... | " 259 | " | | |
| 1135 | " | " | " " | ..... | " 261 | " | | |
| 1136 | " | " | " " | ..... | " 263 | " | | |
| 1137 | " | " | " " | ..... | " 265 | " | | |
| 1138 | " | " | " " | ..... | " 267 | " | | |
| 1139 | " | " | " " | ..... | " 269 | " | | |
| 1140 | " | " | Presidio " | ..... | " 271 | " | 1191 | |
| 1141 | " | " | ⅞ Pecos " ⅛ Reeves " | ..... | " 273 | " | 4418-12 | |
| 1142 | " | " | Presidio " | Jan. 13, 1890 | " 1 | 12 | 1193 | G. H. & S. A. R. R. |
| 1143 | " | " | " " | " | " 3 | " | 1194 | " |
| 1144 | " | " | " " | " | " 5 | " | 1195 | " |
| 1145 | " | " | " " | " | " 7 | " | 1196 | " |
| 1146 | " | " | " " | " | " 9 | " | 1197 | " |
| 1147 | " | Aug. 11, 1875 | " " | " | " 11 | " | 1198 | " |
| 1148 | " | " | " " | " | " 13 | " | 1199 | " |
| 1149 | " | " | " " | " | " 15 | " | 1200 | " |
| 1150 | " | " | " " | " | " 17 | " | 1201 | " |
| 1151 | " | " | " " | 14, | " 19 | " | 1202 | " |
| 1152 | " | " | " " | " | " 21 | " | 1203 | " |
| 1153 | " | " | " " | " | " 23 | " | 1204 | " |
| 1154 | " | " | " " | " | " 25 | " | 1205 | " |
| 1155 | " | " | " " | " | " 27 | " | 1206 | " |
| 1156 | " | " | " " | " | " 29 | " | 1207 | " |
| 1157 | " | " | " " | " | " 31 | " | 1208 | " |
| 1158 | " | " | " " | " | " 33 | " | 1209 | " |
| 1159 | " | " | " " | " | " 35 | " | 1210 | " |
| 1160 | " | " | " " | " | " 37 | " | 1211 | " |
| 1161 | " | " | " " | " | " 39 | " | 1212 | " |
| 1162 | " | " | " " | " | " 41 | " | 1213 | " |
| 1163 | " | " | " " | " | " 43 | " | 1214 | " |
| 1164 | " | " | " " | " | " 45 | " | 1215 | " |
| 1165 | " | " | " " | " | " 47 | " | 1216 | " |
| 1166 | " | " | " " | " | " 49 | " | 1217 | " |



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39 "EXHIBIT D."

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. Company for the section of road beginning at station-house at Luling and ending at the west end of the siding at Kingsbury, being 60,922½ feet of main track and 2,767 feet of sidings and switches.

| Number of cert. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1167 | 640 | Sept. 1, 1875 | Presidio county | Jan. 2, 1890 | 51 | 12 | 1218 | G. H. & S. A. R. R. |
| 1168 | " | " | " | 3, " | 53 | " | 1219 | " |
| 1169 | " | " | " | " | 55 | " | 1220 | " |
| 1170 | " | " | " | " | 57 | " | 1221 | " |
| 1171 | " | " | " | " | 59 | " | 1222 | " |
| 1172 | " | " | " | " | 61 | " | 1223 | " |
| 1173 | " | " | " | " | 63 | " | 1224 | " |
| 1174 | " | " | " | 4, " | 65 | " | 1225 | " |
| 1175 | " | " | " | " | 67 | " | 1226 | " |
| 1176 | " | " | " | " | 69 | " | 1227 | " |
| 1177 | " | " | " | " | 71 | " | 1228 | " |
| 1178 | " | " | " | " | 73 | " | 1229 | " |
| 1179 | " | " | " | " | 75 | " | 1230 | " |
| 1180 | " | " | " | " | 77 | " | 1231 | " |
| 1181 | " | " | " | " | 79 | " | 1232 | " |
| 1182 | " | " | " | " | 81 | " | 1233 | " |
| 1183 | " | " | " | " | 83 | " | 1234 | " |
| 1184 | " | " | " | " | 85 | " | 1235 | " |
| 1185 | " | " | " | " | 87 | " | 1236 | " |
| 1186 | " | " | " | 6, " | 89 | " | 1237 | " |
| 1187 | " | " | " | " | 91 | " | 1238 | " |
| 1188 | " | " | " | " | 93 | " | 1239 | " |
| 1189 | " | " | " | " | 95 | " | 1240 | " |
| 1190 | " | " | " | " | 97 | " | 1241 | " |
| 1191 | " | " | " | " | 99 | " | 1242 | " |
| 1192 | " | " | " | " | 101 | " | 1243 | " |
| 1193 | " | " | " | " | 103 | " | 1244 | " |
| 1194 | " | " | " | " | 105 | " | 1245 | " |
| 1195 | " | " | " | " | 107 | " | 1246 | " |
| 40 | | | | | | | | |
| 1196 | " | " | " | " | 109 | " | 1247 | " |
| 1197 | " | " | " | 7, " | 111 | " | 1248 | " |
| 1198 | " | " | " | " | 113 | " | 1249 | " |
| 1199 | " | " | " | " | 115 | " | 1250 | " |
| 1200 | " | " | " | " | 117 | " | 1251 | " |
| 1201 | " | " | " | " | 119 | " | 1252 | " |
| 1202 | " | " | " | " | 121 | " | 1253 | " |
| 1203 | " | " | " | " | 123 | " | 1254 | " |
| 1204 | " | " | " | " | 125 | " | 1255 | " |
| 1205 | " | " | " | 8, " | 127 | " | 1256 | " |
| 1206 | " | " | " | " | 129 | " | 1257 | " |
| 1207 | " | " | " | Unpatented | 1 | 13 | 527 | |
| 1208 | " | " | " | " | 3 | " | 528 | |
| 1209 | " | " | " | " | 5 | " | 529 | |
| 1210 | " | " | " | " | 7 | " | 530 | |
| 1211 | " | " | " | " | 9 | " | 531 | |

BLEED THROU

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. Company for the section of road beginning at station-house at Luling and ending at the west end of the siding at Kingsbury, being 60,922½ feet of main track and 2,767 feet of sidings and switches.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1212 | 640 | Sep. 1, 1875 | Brewster county | ..... | " 11 | 13 | 532 | |
| 1213 | " | " | " " | ..... | " 13 | " | 533 | |
| 1214 | " | " | " " | ..... | " 15 | " | 534 | |
| 1215 | " | " | " " | ..... | " 17 | " | 535 | |
| 1216 | " | " | " " | ..... | " 19 | " | 536 | |
| 1217 | " | " | " " | ..... | " 21 | " | 537 | |
| 1218 | " | " | " " | ..... | " 23 | " | 538 | |
| 1219 | " | " | " " | ..... | " 25 | " | 539 | |
| 1220 | " | " | " " | ..... | " 27 | " | 540 | |
| 1221 | " | " | " " | ..... | " 29 | " | 541 | |
| 1222 | " | " | " " | ..... | " 31 | " | 542 | |
| 41 | | | | | | | | |
| 1223 | " | " | " " | ..... | " 33 | " | 543 | |
| 1224 | " | " | " " | ..... | " 35 | " | 544 | |
| 1225 | " | " | " " | ..... | " 37 | " | 545 | |
| 1226 | " | " | " " | ..... | " 39 | " | 546 | |
| 1227 | " | " | " " | ..... | " 41 | " | 547 | |
| 1228 | " | " | " " | ..... | " 43 | " | 548 | |
| 1229 | " | " | " " | ..... | " 45 | " | 549 | |
| 1230 | " | " | " " | ..... | " 47 | " | 550 | |
| 1231 | " | " | " " | ..... | " 49 | " | 551 | |
| 1232 | " | " | " " | ..... | " 51 | " | 552 | |
| 1233 | " | " | " " | ..... | " 53 | " | 553 | |
| 1234 | " | " | " " | ..... | " 55 | " | 554 | |
| 1235 | " | " | " " | ..... | " 57 | " | 555 | |
| 1236 | " | " | " " | ..... | " 59 | " | 556 | |
| 1237 | " | " | " " | ..... | " 61 | " | 557 | |
| 1238 | " | " | " " | ..... | " 63 | " | 558 | |
| 1239 | " | " | " " | ..... | " 65 | " | 559 | |
| 1240 | " | " | " " | ..... | " 67 | " | 560 | |
| 1241 | " | " | " " | ..... | " 69 | " | 561 | |
| 1242 | " | " | " " | ..... | " 71 | " | 562 | |
| 1243 | " | " | " " | ..... | " 73 | " | 563 | |
| 1244 | " | " | " " | ..... | " 75 | " | 564 | |
| 1245 | " | " | " " | ..... | " 77 | " | 565 | |
| 1246 | " | " | " " | ..... | " 79 | " | 566 | |
| 1284 | " | " | Schleicher " | July 8, 1876 | 9 | B | 382 | |
| 1285 | " | " | " " | " " | 11 | " | 278 | |
| 1289 | " | " | Sutton " | Aug. 1, " | 25 | C | 205 | G. H. & S.A.R. R.Co. |
| 1336 | 596 7/10 | " | San Saba " | Jan. 11, 1887 | 1 | ... | 505 | " |
| 1337 | 640 | " | " " | " 12, 1877 | 1 | ... | 506 | " |
| 1339 | " | " | " " | " 12, 1877 | 1 | ... | 507 | " |
| 1340 | " | " | " " | " " | 1 | ... | 508 | " |
| 1341 | 320 | " | 55 acres McCulloch " / 265 acres Menard " | " 25, 1887 | 75 | ... | 432-1324 | " |
| 1356 | 640 | " | McCulloch " | Aug. 4, 1876 | 69 | D | 448 | " |
| 1357 | " | " | Val Verde " | Unpatented | 17 | A2 | Omitted. | |
| 1358 | " | " | " " | " | 59 | A2 | 886 | |

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42 EXHIBIT "E."

Certificates, with siding- included, issued to the Galveston, Harrisburg & San Antonio R. R. Co. for the section of road beginning at east pier of Guadalupe bridge, thence eastward at a point opposite the depot at Kingsbury or west end of the siding where the last inspection terminated, being 14 miles and 1,510 feet of main track and two miles & 686 feet of side tracks.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1359 | 640 | Nov. 10, 1876 | Schleicher county | Sept. 28, 1888 | 1 | H | 315 | G. H. & S. A. R'y. |
| 1360 | " | " | " " | " | 3 | " | 316 | " |
| 1361 | " | " | " " | 25, | 5 | " | 317 | " |
| 1362 | 463 1/10 | " | " " | " | 7 | " | 318 | " |
| 1363 | 640 | " | " " | 28, | 9 | " | 319 | " |
| 1364 | " | " | " " | " | 11 | " | 320 | " |
| 1365 | " | " | " " | " | 13 | " | 321 | " |
| 1366 | " | " | " " | " | 15 | " | 322 | " |
| 1367 | 609 3/4 | " | " " | " | 17 | " | 323 | " |
| 1368 | 640 | " | " " | " | 19 | " | 324 | " |
| 1369 | " | " | " " | " | 21 | " | 325 | " |
| 1370 | " | " | " " | " | 23 | " | 326 | " |
| 1371 | " | " | " " | " | 25 | " | 327 | " |
| 1372 | " | " | " " | " | 27 | " | 328 | " |
| 1373 | " | " | " " | " | 29 | " | 329 | " |
| 1374 | " | " | " " | " | 31 | " | 330 | " |
| 1375 | " | " | " " | " | 33 | " | 331 | " |
| 1376 | " | " | " " | " | 35 | " | 332 | " |
| 1377 | " | " | " " | " | 37 | " | 333 | " |
| 1378 | " | " | " " | " | 39 | " | 334 | " |
| 1379 | " | " | " " | " | 41 | " | 335 | " |
| 1380 | " | " | " " | Oct. 4, 1888 | 43 | " | 336 | " |
| 1381 | " | " | " " | 3, | 45 | " | 337 | " |
| 1382 | " | " | " " | " | 47 | " | 338 | " |
| 1383 | " | " | " " | " | 49 | " | 339 | " |
| 1384 | " | " | " " | 2, | 51 | " | 340 | " |
| 1385 | " | " | " " | " | 53 | " | 341 | " |
| 43 | | | | | | | | |
| 1386 | " | " | " " | " | 55 | " | 342 | " |
| 1387 | " | " | " " | " | 57 | " | 343 | " |
| 1388 | " | " | " " | 1, | 59 | " | 344 | " |
| 1389 | " | " | " " | Sep. 29, 1888 | 61 | " | 345 | " |
| 1390 | " | " | " " | " | 63 | " | 346 | " |
| 1391 | " | " | " " | " | 65 | " | 347 | " |
| 1392 | " | " | " " | 28, | 67 | " | 348 | " |
| 1393 | " | " | " " | " | 69 | " | 280 | " |
| 1394 | " | " | " " | " | 71 | " | 281 | " |
| 1395 | " | " | " " | " | 73 | " | 282 | " |
| 1396 | " | " | " " | 27, | 75 | " | 283 | " |
| 1397 | " | " | " " | " | 77 | " | 284 | " |
| 1398 | " | " | " " | " | 79 | " | 285 | " |
| 1399 | " | " | " " | " | 81 | " | 286 | " |
| 1400 | " | " | " " | 26, | 83 | " | 287 | " |
| 1401 | " | " | " " | Sep. 2, 1885 | 1 | I | 288 | " |
| 1402 | " | " | " " | " | 3 | ... | 289 | " |
| 1403 | " | " | " " | " | 5 | ... | 290 | " |

BLEED THROU

Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R. R. Co. for the section of road beginning at east pier of Guadalupe bridge, thence eastward, ending at a point opposite the depot door at Kingsbury or west end of the siding where the last inspection terminated, being 14 miles and 1,510 feet of main track and two miles and 686 feet of side tracks.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1404 | 640 | Nov. 10, 1876 | Schleicher Co. | Sep. 2, 1885 | 7 | I | 291 | G.H.&S.A. R'y Co. |
| 1405 | " | " | " " | " | 9 | " | 292 | " |
| 1406 | " | " | " " | " | 11 | " | 293 | " |
| 1407 | " | " | " " | Aug. 27, | 13 | " | 294 | " |
| 1408 | " | " | " " | 28, | 15 | " | 295 | " |
| 1409 | " | " | " " | " | 17 | " | 296 | " |
| 1410 | " | " | " " | " | 19 | " | 297 | " |
| 1411 | " | " | " " | " | 21 | " | 298 | " |
| 1412 | " | " | " " | " | 23 | " | 299 | " |
| 44 | | | | | | | | |
| 1413 | " | " | " " | " | 25 | " | 300 | " |
| 1414 | " | " | " " | 29, | 27 | " | 301 | " |
| 1415 | " | " | " " | " | 29 | " | 302 | " |
| 1416 | " | " | " " | Sep. 1, | 31 | " | 303 | " |
| 1417 | " | " | " " | Aug. 29, | 33 | " | 304 | " |
| 1418 | " | " | " " | " | 35 | " | 305 | " |
| 1419 | " | " | " " | " | 37 | " | 306 | " |
| 1420 | " | " | " " | 28, | 39 | " | 307 | " |
| 1421 | " | " | " " | 29, | 41 | " | 308 | " |
| 1422 | " | " | " " | " | 43 | " | 309 | " |
| 1423 | " | " | " " | " | 45 | " | 310 | " |
| 1424 | " | " | " " | " | 47 | " | 311 | " |
| 1425 | " | " | " " | " | 49 | " | 312 | " |
| 1426 | " | " | " " | 3, | 51 | " | 313 | " |
| 1427 | " | " | " " | " | 53 | " | 314 | " |
| 1428 | " | " | " " | " | 55 | " | 246 | " |
| 1429 | " | " | " " | " | 57 | " | 247 | " |
| 1430 | " | " | " " | " | 59 | " | 248 | " |
| 1431 | " | " | " " | " | 61 | " | 249 | " |
| 1432 | " | " | " " | 4, | 63 | " | 250 | " |
| 1433 | " | " | " " | 3, | 65 | " | 251 | " |
| 1434 | " | " | " " | " | 67 | " | 252 | " |
| 1435 | " | " | " " | " | 69 | " | 253 | " |
| 1436 | " | " | " " | " | 71 | " | 254 | " |
| 1437 | " | " | " " | " | 73 | " | 255 | " |
| 1438 | " | " | " " | " | 75 | " | 256 | " |
| 1439 | " | " | " " | " | 77 | " | 257 | " |
| 1440 | " | " | Sutton " | Aug. 10, | 1 | K | 207 | " |
| 1441 | " | " | Schleicher " | " | 3 | " | 258 | " |
| 1442 | " | " | " " | " | 5 | " | 259 | " |
| 1443 | " | " | " " | " | 7 | " | 260 | " |
| 1444 | " | " | Sutton " | " | 9 | " | 208 | " |
| 1445 | " | " | " " | " | 11 | " | 209 | " |
| 1446 | " | " | Schleicher " | " | 13 | " | 261 | " |
| 1447 | " | " | " " | 8, | 15 | " | 262 | " |
| 1448 | " | " | " " | " | 17 | " | 263 | " |

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45 Certificates, with siding included, issued to the Galveston, Harrisburg & San Antonio R. R. Co. for the section of road beginning at east pier of Guadalupe bridge, thence eastward, ending at a point opposite the depot door at Kingsbury or west end of the siding where the last inspection terminated, being 14 miles and 1,510 feet of main track and two miles and 686 feet of side tracks.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1449 | 640 | Nov. 10, 1876 | Sutton county.. | Aug. 10, 1885 | 19 | K | 210 | G. H. & S. A. R'y Co. |
| 1450 | " | " | " " .. | " | 21 | " | 211 | " |
| 1451 | " | " | " " .. | " | 23 | " | 212 | " |
| 1452 | " | " | " " .. | 8, | 25 | " | 213 | " |
| 1453 | " | " | " " .. | 10, | 27 | " | 214 | " |
| 1454 | " | " | " " .. | " | 29 | " | 215 | " |
| 1455 | " | " | Schleicher " .. | " | 31 | " | 264 | " |
| 1456 | " | " | " " .. | " | 33 | " | 265 | " |
| 1457 | " | " | " " .. | " | 35 | " | 266 | " |
| 1458 | " | " | " " .. | " | 37 | " | 267 | " |
| 1459 | " | " | " " .. | " | 39 | " | 268 | " |
| 1460 | " | " | Sutton " .. | " | 41 | " | 216 | " |
| 1461 | " | " | " " .. | " | 43 | " | 217 | " |
| 1462 | " | " | " " .. | " | 45 | " | 218 | " |
| 1463 | " | " | " " .. | " | 47 | " | 219 | " |
| 1464 | " | " | " " .. | " | 49 | " | 220 | " |
| 1465 | " | " | Schleicher " .. | " | 51 | " | 269 | " |
| 1466 | " | " | " " .. | " | 53 | " | 270 | " |
| 1467 | " | " | " " .. | " | 55 | " | 271 | " |
| 1468 | " | " | Sutton " .. | " | 57 | " | 221 | " |
| 1469 | " | " | " " .. | " | 59 | " | 222 | " |
| 1470 | " | " | " " .. | " | 61 | " | 223 | " |
| 1471 | " | " | " " .. | " | 63 | " | 224 | " |
| 1472 | " | " | " " .. | " | 65 | " | 225 | " |
| 1473 | " | " | Schleicher " .. | " | 67 | " | 272 | " |
| 1474 | " | " | " " .. | " | 69 | " | 273 | " |
| 1475 | " | " | " " .. | " | 71 | " | 274 | " |
| 1476 | " | " | Sutton " .. | " | 73 | " | 226 | " |
| 1477 | " | " | " " .. | " | 75 | " | 227 | " |
| 46 | | | | | | | | |
| 1478 | " | " | " " .. | " | 77 | " | 228 | " |
| 1479 | " | " | " " .. | " | 79 | " | 229 | " |
| 1480 | " | " | " " .. | " | 81 | " | 230 | " |
| 1481 | " | " | Schleicher " .. | " | 83 | " | 275 | " |
| 1482 | " | " | " " .. | " | 85 | " | 276 | " |
| 1483 | " | " | " " .. | " | 87 | " | 277 | " |
| 1484 | " | " | " " .. | 17, | 1 | L | 212 | " |
| 1485 | " | " | " " .. | " | 3 | " | 213 | " |
| 1486 | " | " | " " .. | " | 5 | " | 214 | " |
| 1487 | " | " | " " .. | " | 7 | " | 215 | " |
| 1488 | " | " | " " .. | " | 9 | " | 216 | " |
| 1489 | " | " | " " .. | " | 11 | " | 217 | " |
| 1490 | " | " | " " .. | " | 13 | " | 218 | " |
| 1491 | " | " | " " .. | " | 15 | " | 219 | " |
| 1492 | " | " | " " .. | " | 17 | " | 220 | " |
| 1493 | " | " | " " .. | " | 19 | " | 221 | " |

BLEED THRO

Certificates, with sidings, issued to the Galveston, Harrisburg & San Antonio R. R. Co. for the section of road beginning at east pier of Guadalupe bridge, thence eastward, ending at a point opposite the depot door at Kingsbury or west end of the siding where the last inspection terminated, being 14 miles and 1,510 feet of main track and two miles and 686 feet of sidings.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1494 | 640 | Nov. 10, 1876 | Schleicher county..... | Aug. 17, 1885 | 21 | L | 222 |
| 1495 | " | " | " ..... | " | 23 | " | 223 |
| 1496 | " | " | " ..... | " | 25 | " | 224 |
| 1497 | " | " | " ..... | 18, | 27 | " | 225 |
| 1498 | " | " | " ..... | " | 29 | " | 226 |
| 1499 | " | " | " ..... | 17, | 31 | " | 227 |
| 1500 | " | " | " ..... | " | 33 | " | 228 |
| 1501 | " | " | " ..... | " | 35 | " | 229 |
| 1502 | " | " | " ..... | " | 37 | " | 230 |
| 1503 | " | " | " ..... | " | 39 | " | 231 |
| 47 | | | | | | | |
| 1504 | " | " | " ..... | " | 41 | " | 232 |
| 1505 | " | " | " ..... | " | 43 | " | 233 |
| 1506 | " | " | " ..... | " | 45 | " | 234 |
| 1507 | " | " | " ..... | " | 47 | " | 235 |
| 1508 | " | " | " ..... | " | 49 | " | 236 |
| 1509 | " | " | " ..... | Sept. 28, 1888 | 1 | M | 237 |
| 1510 | " | " | " ..... | " | 3 | " | 238 |
| 1511 | " | " | " ..... | 27, | 5 | " | 239 |
| 1512 | " | " | " ..... | " | 7 | " | 240 |
| 1513 | " | " | " ..... | " | 9 | " | 241 |
| 1514 | " | " | " ..... | " | 11 | " | 242 |
| 1515 | " | " | " ..... | " | 13 | " | 243 |
| 1516 | " | " | " ..... | " | 15 | " | 244 |
| 1517 | " | " | " ..... | 26, | 17 | " | 245 |
| 1518 | " | " | " ..... | " | 19 | " | 349 |
| 1519 | " | " | " ..... | " | 21 | " | 350 |
| 1520 | " | " | " ..... | 25, | 23 | " | 351 |
| 1521 | " | " | " ..... | " | 25 | " | 352 |
| 1522 | " | " | " ..... | " | 27 | " | 353 |
| 1523 | " | " | " ..... | " | 29 | " | 354 |
| 1524 | " | " | " ..... | " | 31 | " | 355 |
| 1525 | " | " | " ..... | " | 33 | " | 356 |
| 1526 | " | " | " ..... | 24, | 35 | " | 357 |
| 1527 | " | " | " ..... | " | 37 | " | 358 |
| 1528 | " | " | " ..... | " | 39 | " | 359 |
| 1529 | " | " | " ..... | " | 41 | " | 360 |
| 1530 | " | " | " ..... | 22, | 43 | " | 361 |
| 1531 | " | " | " ..... | " | 45 | " | 362 |
| 1532 | " | " | " ..... | " | 47 | " | 363 |
| 1533 | " | " | " ..... | " | 49 | " | 364 |
| 1534 | " | " | " ..... | 21, | 51 | " | 365 |
| 1535 | " | " | " ..... | " | 53 | " | 366 |
| 1536 | " | " | " ..... | " | 55 | " | 367 |
| 1537 | " | " | " ..... | " | 57 | " | 368 |
| 1538 | " | " | " ..... | " | 59 | " | 369 |

UGH POOR COPY

48 Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R'y Co. for the section of road beginning at east pier of Guadalupe bridge, thence eastward, ending at a point opposite the depot door at Kingsbury or west end of the siding where the last inspection terminated, being 14 miles and 1,510 feet of main track and two miles and 686 feet of side tracks.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1539 | 640 | Nov. 10, 1876 | Schleicher county | Sept. 21, 1888 | 61 | M | 370 | G. H. & S. A. R'y Co. |
| 1540 | " | " | " " | " | 63 | " | 371 | " |
| 1541 | " | " | " " | " | 65 | " | 372 | " |
| 1542 | " | " | " " | " | 67 | " | 373 | " |
| 1543 | " | " | " " | " | 69 | " | 374 | " |
| 1544 | " | " | " " | " | 71 | " | 375 | " |
| 1545 | " | " | " " | 20, | 73 | " | 376 | " |
| 1546 | " | " | " " | " | 75 | " | 377 | " |
| 1547 | " | " | " " | " | 77 | " | 378 | " |
| 1548 | " | " | " " | " | 79 | " | 379 | " |
| 1549 | " | " | Kimble " | ..... | 1 | N | 230 | |
| 1550 | " | " | " " | ..... | 3 | " | 231 | |
| 1551 | " | " | " " | ..... | 5 | " | 232 | |
| 1552 | " | " | " " | ..... | 7 | " | 233 | |
| 1553 | " | " | " " | ..... | 9 | " | 234 | |
| 1554 | " | " | " " | ..... | 11 | " | 235 | |
| 1555 | " | " | " " | ..... | 13 | " | 236 | |
| 1556 | " | " | " " | ..... | 15 | " | 237 | |
| 1557 | " | " | " " | ..... | 17 | " | 238 | |
| 1558 | " | " | " " | ..... | 19 | " | 239 | |
| 1559 | " | " | " " | ..... | 21 | " | 240 | |
| 1560 | " | " | " " | ..... | 23 | " | 241 | |
| 1561 | " | " | " " | ..... | 25 | " | 242 | |
| 1562 | " | " | " " | ..... | 27 | " | 243 | |
| 1563 | " | " | " " | ..... | 29 | " | 244 | |
| 1564 | " | " | " " | ..... | 31 | " | 245 | |
| 1565 | " | " | " " | ..... | 33 | " | 246 | |
| 1566 | " | " | " " | ..... | 35 | " | 247 | |
| 1567 | " | " | " " | ..... | 37 | " | 248 | |
| 49 | | | | | | | | |
| 1568 | " | " | " " | ..... | 39 | " | 249 | |
| 1569 | " | " | " " | ..... | 41 | " | 250 | |
| 1570 | " | " | " " | ..... | 43 | " | 251 | |
| 1571 | " | " | " " | ..... | 45 | " | 252 | |
| 1572 | " | " | " " | ..... | 47 | " | 253 | |
| 1573 | " | " | " " | ..... | 49 | " | 254 | |
| 1574 | " | " | " " | ..... | 51 | " | 255 | |
| 1575 | " | " | " " | ..... | 53 | " | 256 | |
| 1576 | " | " | " " | ..... | 55 | " | 257 | |
| 1577 | " | " | " " | ..... | 57 | " | 258 | |
| 1578 | " | " | " " | ..... | 59 | " | 259 | |
| 1579 | " | " | " " | ..... | 61 | " | 260 | |
| 1580 | " | " | " " | ..... | 63 | " | 261 | |
| 1581 | " | " | " " | ..... | 65 | " | 262 | |
| 1582 | " | " | " " | ..... | 67 | " | 263 | |
| 1583 | " | " | " " | ..... | 69 | " | 264 | |

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Certificates, with sidings included, issued to the Galveston, Harrisburg & San Antonio R'y Co. for the section of road beginning at east pier of Guadalupe bridge, thence eastward, ending at a point opposite the depot door at Kingsbury or west end of the siding where the last inspection terminated, being 14 miles and 1,510 feet of main track and two miles and 686 feet of side tracks.

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Unpatented sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1584 | 640 | Nov. 10, 1876 | Kimble Co. | ..... | 71 | N | 265 | |
| 1585 | " | " | " " | ..... | 73 | " | 266 | |
| 1586 | " | " | " " | ..... | 75 | " | 267 | |
| 1587 | " | " | " " | ..... | 77 | " | 268 | |
| 1588 | " | " | " " | ..... | 79 | " | 269 | |
| 1589 | " | " | " " | ..... | 81 | " | 270 | |
| 1590 | " | " | " " | ..... | 83 | " | 271 | |
| 1591 | " | " | " " | ..... | 85 | " | 272 | |
| 1592 | " | " | " " | ..... | 87 | " | 273 | |
| 1593 | " | " | " " | ..... | 89 | " | 274 | |
| 1594 | " | " | " " | ..... | 91 | " | 275 | |
| 50 | | | | | | | | |
| 1595 | " | " | " " | ..... | 93 | " | 276 | |
| 1596 | " | " | " " | ..... | 95 | " | 277 | |
| 1597 | " | " | " " | ..... | 97 | " | 278 | |
| 1598 | " | " | " " | ..... | 99 | " | 279 | |
| 1599 | " | " | " " | ..... | 101 | " | 280 | |
| 1600 | " | " | " " | ..... | 103 | " | 281 | |
| 1601 | " | " | " " | ..... | 105 | " | 282 | |
| 1602 | " | " | " " | ..... | 107 | " | 283 | |
| 1603 | " | " | Val Verde " | ..... | 57 | A2 | 883 | |
| 1604 | " | " | Kimble " | ..... | 111 | N | 284 | |
| 1605 | " | " | " " | ..... | 113 | " | 285 | |
| 1606 | " | " | " " | ..... | 115 | " | 286 | |
| 1607 | " | " | " " | ..... | 117 | " | 287 | |
| 1608 | " | " | Val Verde " | ..... | 61 | A2 | 884 | |
| 1609 | " | " | Pecos " | ..... | 35 | " | 1945 | |
| 1610 | " | " | " " | ..... | 37 | " | 1946 | |
| 1611 | " | " | " " | ..... | 39 | " | 1947 | |
| 1612 | " | " | " " | ..... | 41 | " | 1948 | |
| 1613 | " | " | " " | ..... | 43 | " | 1913 | |
| 1614 | " | " | " " | ..... | 45 | " | 1914 | |
| 1615 | " | " | Zavalla " | Oct. 18, 1887 | 13 | O | 147 | G. H. & S. A. R'y Co. |
| 1616 | " | " | Pecos " | ..... | 47 | A2 | 1915 | |
| 1617 | " | " | " " | ..... | 49 | " | 1916 | |
| 1618 | " | " | " " | ..... | 51 | " | 1917 | |
| 1619 | " | " | " " | ..... | 53 | " | 1918 | |
| 1620 | " | " | " " | ..... | 55 | " | 1919 | |

3rd. That each of said certificates, the numbers of which are shown in said exhibits, was issued to and in the name of the Galveston, Harrisburg and San Antonio Railway Company at the time and for the purpose indicated in said exhibits, and were by said company at the time therein noted located and surveyed upon the lands in controversy, and were returned to and are on file in the general land office of the State of Texas, and in the cases therein enumerated patents have issued thereon.



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That by reason of said locations and surveys the defendant has unlawfully entered upon and taken possession of said lands, ejecting the plaintiff therefrom, and now unlawfully withholds the
51 same from plaintiff, to its great damage.

That the Buffalo Bayou, Brazos and Colorado Railroad Company was chartered by the special act of the legislature of the State of Texas approved February 11th, 1850.

That by the special act of the legislature of the State of Texas approved February 11, 1854, the said Buffalo Bayou, Brazos and Colorado Railroad Company and this defendant, as its successors, was restricted to an extension of its road to Austin and to a line extending thence to a connection with any road running north of Austin to the Pacific ocean.

The said railroad companies were not entitled to receive any lands for the construction of any road from Columbus to San Antonio and westward for which it received certificates, as shown by said exhibits.

That by the special act of the legislature of the State of Texas approved July 27, 1870, the name of the Buffalo Bayou, Brazos & Colorado Railroad Company was changed to The Galveston, Harrisburg & San Antonio Railway Company, the defendant, and under the provisions of said special act the defendant company for the first time was granted the privilege and authority of constructing a railway to San Antonio from Columbus to the Guadalupe bridge and over the line for which certificates were issued, as shown in said exhibits, and at that time the constitution of 1869–'70 forbade the legislature from authorizing or granting lands to railway companies for the construction of their roads, though no land was granted by said act.

(5.) That there were issued to the defendant company 415 certificates by the commissioner of the general land office, numbered from 1/1 to 1/415, for a line of road from "the point of junction with the old line of the Buffalo Bayou, Brazos and Colorado Railroad Company, at a distance of 493 feet west of the west end of the approach to the bridge over the Colorado river and ending at the west end of the west approach to the bridge over the West Navidad river, being 24 miles and 3,910 feet of main track and 6,266 feet of sidings," of which 415 certificates the 315 certificates shown in Exhibit "A" form a part.

That said section of road was constructed and completed between July 27, 1870, and December 19, 1873.

(6.) That there were issued to defendant company 433 cer-
52 tificates, numbered from 1/416 to 1/858, by the commissioner of the general land office for the construction of the portion of its road from "the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, it being the first one east of Buck branch, being twenty-seven miles and 47 feet of main track and 3,800 feet of sidings," of which 433 certificates the 407 certificates shown in Exhibit "B" form a part.

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That said section of road was constructed and completed between July 27, 1870, and June 25, 1874.

(7.) That there were issued to defendant company 308 certificates by the commissioner of the general land office, numbered from 859 to 1166, for the construction of the portion of its road from "a red sandstone culvert, the first one east of Buck's branch and ending at the turn-table at Luling, being 16 miles and 4,610 feet of main track and one mile and 968 feet of sidings," of which the 308 certificates shown in Exhibit "C" form the whole; that said section of road was constructed and completed between July 27, 1870, and January 16, 1875.

(8.) That there were issued to the defendant company 192 certificates by the commissioner of the general land office for the construction of the portion of its road between the "station-house at Luling, ending at the west end of the siding at Kingsbury, being 60,922½ feet of main track and 2,767 feet of sidings and switches," of which the 91 certificates shown in Exhibit "B" form a part.

That this section of road was constructed and completed between July 27, 1870, and July 12, 1875.

(9.) That there were issued to defendant company 262 certificates by the commissioner of the general land office, numbered from 1,359 to 1,620, for the construction of that portion of its road between "the east pier of the Guadalupe bridge, thence eastward, ending at a point opposite the depot door at Kingsbury or the west end of the siding where the last inspection terminated, being 14 miles and 1,510 feet of main track and two miles and 686 feet of side track," which 262 certificates *are* shown in Exhibit "E" form the whole.

That said section of road was constructed and completed between July 27, 1870, and October 27, 1876.

(10.) Plaintiff further represents and shows to the court that the certificates referred to in said exhibits were issued to the de-
53 fendant company for the construction of its road from the town of Columbus to the Guadalupe bridge, as heretofore shown, and that every portion of said road was constructed and completed between July 27, 1870, and October 27, 1876.

That at no time during said period was there any law in existence in this State authorizing the issuance of land certificates to the defendant company for main track or sidings, and especially does the plaintiff aver and represent that — no time during said period was there any law in existence authorizing the issuance of certificates to said company for the construction of its line of road between Columbus and the Guadalupe bridge.

Plaintiff therefore charges that the action of the commissioner of the general land office in issuing and delivering to the defendant company the land certificates and in permitting them to be located and surveyed upon the lands heretofore described and returned to and filed in the general land office of this State, as well as the issuance of patents shown in said exhibits, *were*, as before alleged, had and done wholly without authority of law and in plain violation

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of the constitution and laws of the State of Texas in force at that time.

(11.) The plaintiff further represents and shows to the court that, as will appear from the allegations heretofore made, certificates were issued by the commissioner of the general land office for the construction of that portion of defendant's road between the town of Columbus and the east pier of the Guadalupe bridge for five miles and 4,027 feet of sidings and turnouts at the rate of 16 sections of land per mile.

That, as heretofore charged, at no time during the construction of said road and the issuance of said certificates was there any law in existence in this State authorizing the issuance of certificates to the defendant company for the construction of sidings and turnouts, and the plaintiff therefore charges that the acts of said commissioner in issuing said certificates and permitting same to be located on the lands heretofore described and in issuing patents therefor, whenever done as shown in the exhibits forming a part of this petition, were done in violation of the constitution and laws of this State and are utterly null and void.

(12.) That, by reason of the unlawful acts of the said com-
54 pany in obtaining and holding the aforesaid certificates and in locating them upon the lands of plaintiff, it holds out to the world that it has some kind of title to said lands and a cloud is cast upon the title of plaintiff thereto.

Wherefore the said plaintiff prays for judgment, for possession of and title to the said lands, for a decree cancelling each of said certificates and patents heretofore described and removing the cloud cast upon the title by the location and survey of the same, for damages, costs, and general relief.

C. A. CULBERSON,
*Attorney General.*
R. L. BATTS,
*Assistant for the State.*

(Filed Mar. 13, 1893.
C. E. WAY, *Clerk.*)

*Application for Removal.*

Filed Mar. 6, 1893.

In the District Court of Brewster County, Texas.

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| THE STATE OF TEXAS<br>*vs.*<br>GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY. | # 101. |

To the honorable district judge of Brewster county:

The petition of The Galveston, Harrisburg & San Antonio Railway Company, defendant in above-stated cause, respectfully represents that said company is the sole defendant in the above-entitled

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cause, and that the matter and amounts exceed, exclusive of interest and costs, the sum of five thousand dollars.

That your petitioner is a corporation duly incorporated under the laws of Texas and a resident thereof, having its domicile in said State of Texas.

That said suit is a suit of a civil nature, being a suit for the recovery of $879{,}078\frac{1}{2}{}_{0}$ acres, situated in the counties of Jeff Davis, Presidio, Brewster, Kimble, San Saba, Val Verde, Crockett, McCulloch, Pecos, Buchel, Reeves, Schleicher, Sutton, and Zavalla counties.

(2.) Your petitioner further represents that the defendant
55 is a corporation, duly incorporated under the laws of the State of Texas on the 11th day of February, 1850; that said company was invested with the right of constructing, owning, and maintaining a railway commencing at any suitable point on Buffalo bayou between Lynchburg and Houston, in the county of Harris, and thence running by such course and to such point at or near the Brazos river between the towns of Richmond and Washington, inclusive, as such company shall deem most suitable; that the corporate name of said company was the Buffalo Bayou, Brazos and Colorado Railway Company.

That the charter of said company was amended on the 31st day of January, 1852, by the legislature, which authorized said railway company to acquire, by purchase or gift, any real estate the directors shall think desirable in order to promote or hasten the construction of said railroad. They were authorized to borrow money on their bonds or notes at such rates as shall be deemed expedient and mortgage their property to secure the same.

That on the 29th day of January, 1853, the said railway company was by an amended act of the legislature authorized to locate, construct, own, and maintain a railway commencing at a suitable point on Buffalo bayou, in the county of Harris, and thence running by such course and to such point or points at or near the Brazos and Colorado rivers or across the same as said company may deed advisable, with the privilege of making, owning, and maintaining such branches to said road as they may deem expedient. It is further provided that there shall be granted to said company eight sections of land of 640 acres each for every mile of railroad actually completed and ready for use.

Again, on the 4th day of February, 1854, the said charter was so amended by an act of the legislature as to entitle it to all the rights, privileges, and benefits to accrue from any general law or laws that have or may hereafter be passed in this State to encourage the construction of railroads in the same manner and to the same extent as if the *gague* of said road was the same now fixed or which may be hereafter fixed upon by this State.

By virtue of another act of the legislature passed Feb'y 4th, 1854, the company was required, in order to avail itself of the act to which the said act is a supplement, to accept any donation of land from the State, they shall not be entitled to receive any such
56 donation under the provisions of this law that has been heretofore passed, on any portion of the road which has not been

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completed or ready for use within ten years from and after the passage of this act; provided that said company shall restrict themselves to the following route, viz., to an extension of their existing road to Austin, in Travis county, crossing the Brazos river at any point between the town of Richmond, in Fort Bend county, and Hidalgo Falls, in Washington county, and with the right of extending their road from Austin to connect with any road running north of Austin towards the Pacific ocean, providing such connection be made between the 96 and 98 parallels of longitude, and provided, further, that said company shall have no right to build branches from their main line.

Again, on the 27th day of July, 1870, an act was passed by the legislature supplementary to the act to incorporate the Buffalo Bayou, Brazos and Colorado Railway Company and to the other special acts relating to said company providing for the consolidation of its property and extending of its road. The first section of said supplementary act changes the name of the railway company, so that it should be known thereafter by the corporate name of the Galveston, Harrisburg & San Antonio Railway Company. It was provided by the third section of said act that the said company was authorized to extend the existing line of railway owned and operated by said company from Columbus, in Colorado county, to San Antonio, in the county of Bexar, within four years from the passage of this act, and thence to a terminus on the Rio Grande by such route as the directors shall deem feasible, with a branch from the most suitable point to New Braunfels, in Comal county, within four years from the passage of this act, or said new company may connect with any line of railway that may be constructed or under construction to San Antonio or the Rio Grande south of the latitude of the city of Austin and Colorado river instead of building its own line beyond the point of such connection, and may build to and connect with any line of railway that may be constructed or under construction, and it is not to form any part of any railroad line to the Pacific south of the 25th parallel of latitude, nothing therein being construed as to exclude such new company from the right to construct also any part of the line up the Colorado valley formerly designated by said sold-out company as to its route under the provisions
57 of the 11th section of the act of December 19, 1857.

And further provided in section 4 that said new company may consolidate with its existing railroad the bridge built by the Brazos Iron Bridge Company over the Brazos river at Richmond and the five miles of railroad, more or less, including said tracks from the town of Alleyton to the town of Columbus, built under the charter granted in 1860 to the Columbus Tap Railroad Company, including the bridge over the Colorado river at Columbus, together with all the franchises, rights, fixtures, appurtenances, etc.

It is further provided in section 8 of said supplementary act, in case it shall be made to appear to the governor that there has not been issued upon said railroad the full quantity of 16 sections of land script for every mile of same that was constructed and put in running order prior to the war of the late rebellion in accordance

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with the provisions of the charter and of the general laws of the State in force at the time regulating railroads, there shall be issued to said new company such script to the amount of any such deficiency, notwithstanding the said railroad may not have been constructed and completed at the rate of 25 miles each year, for the construction of the first 25 miles, as provided in the act of January 30, 1854. It is further provided in section 11 that said new company shall be entitled to the same or similar rights and relief, except State aid in bonds or endorsement or guarantee of interest or bonds granted to or provided for any other railroad company by the legislature and upon the same and similar terms and conditions, so far as such rights and relief are in their character applicable to said new company or its line or lines of railroads.

Petitioner further represents that the legislature of the State of Texas on the 13th day of November, 1866, passed an act for the benefit of railroad companies.

The first section provided that the grant of 16 sections of land to the mile to railroad companies heretofore or hereafter constructing railroads in Texas shall be extended under the same restrictions and limitations provided by law for ten years after the passage of the act.

On the 10th day of March, 1875, the legislature passed a
58 law whereby it granted to the Galveston, Harrisburg & San Antonio Railway Company until the 28th day of January, 1876, to complete said road to the city of San Antonio.

The constitution of the State of Texas, by article 10, section 6, for 1869, provided as follows: "The legislature shall not hereafter grant lands to any person or persons, nor shall any certificates for lands be sold at the land office, except to actual settlers upon the same and in lots not exceeding 160 acres." And amendment to said provision of the constitution was voted by the people of Texas by an election held on the 5, 6, 7, and 8 days of November, 1872, whereby it was provided that "the legislature of the State of Texas shall not hereafter grant lands, except for purposes of internal improvements, to any person or persons, nor shall any certificate for land be sold at the land office except to actual settlers upon the same and in lots not exceeding 160 acres: Provided, that the legislature shall not grant out of the public domain more than twenty sections for each mile completed in aiding in the construction of which land may be granted: And provided further, that nothing in the foregoing proviso shall affect any rights granted or secured by laws passed prior to the final adoption of this amendment."

The said amendment to the constitution was by an act of the legislature approved March 19, 1873.

That upon the adoption of said amendment to the constitution the legislature of Texas proceeded to grant to and provide for a large number of railroad rights to sixteen sections of land to the mile of completed road, as will more fully appear by reference to the special laws of the legislature, and defendant thereupon proceeded to construct its road from Columbus to the Guadalupe river, and did construct the same, relying in good faith upon the promise, agreement, and undertaking of the State as fully set forth in said

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section eleven of defendant's amended charter of May 27, 1870, and did from time to time receive the lands sued for as said construction proceeded and was completed in accordance with the law.

On the 16th day of August, 1876, the legislature of the State of Texas passed a general law granting sixteen sections of land for every mile of its road completed and put in running order.

On the 22nd day of April, 1882, the legislature of the State of Texas passed a law repealing the laws and parts of laws then
59 in force granting lands or land certificates to any person, firm, or corporation or company for the construction of railroads, canals, and ditches.

Petitioner further represents that in pursuance with said laws and by virtue of the original charter granted to said railway company, which was and became a contract with the State of Texas, and in pursuance of the law of January 30, 1854, and of the general and special laws of the State of Texas, and all of the charters of said railway company, — became entitled to the grant of sixteen sections of land per mile of its said completed road, as aforesaid, for which it received the certificates for land and which it located, as fully described in plaintiff's petition.

Petitioner further represents that its completed road, extending from San Antonio, in Bexar county, to the Rio Grande river, in El Paso county, is a distance of 623.14 miles; that by reason of the completion of its said road wholly within the time required by law between San Antonio and the Rio Grande river the said defendant became entitled to 9,970.24 additional certificates, calling for six hundred and forty (640) acres of land for each certificate, which would entitle the defendant company to locate 6,380,953.6 acres of land in the State of Texas, which the State declined to recognize.

By reason of the provisions of section 6, article 10, of the constitution of the State of Texas, withdrawing the grants of land to railroad companies, and by reason of the act of April 28, 1882, which in its effect has deprived petitioner of its land grants, as aforesaid, which it had earned, *and* the State of Texas, although requested, through her public officers, declined to issue and deliver to said railway company the said 9,970.24 certificates aforesaid, calling for 6,380,953.6 acres of land in the State of Texas, although said railway company had completed and put in running order within the time, under the provisions of the law, as aforesaid, its said railroad from Houston, in Harris county, to El Paso, in El Paso county.

That the constitution of 1869 and the act of the legislature in withdrawing the lands and depriving petitioner of its rights thereto *was* in violation of section 10, article 1, of the Constitution of the United States, which provides that no State should pass any
60 "law impairing the obligation of contracts," and also in violation of section 1 of the 14th amendment of the Constitution of the United States, which provides that "no State shall deprive any person of life, liberty, or property without due process of law, or deny to any person within its jurisdiction the equal protection of the laws."

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That said suit instituted, as aforesaid, against this defendant is a suit arising under the laws of the United States; all of which, with other necessary particulars, will more fully appear from the pleadings filed and referred to as a part of this petition in like manner as if therein at length transcribed as well as herein specifically set out.

Your petitioner further represents that this petition and bond for removal which accompanies the same was filed at or before the time when defendants are required by the laws of the State of Texas and the rule of said court in which this suit is brought to answer or plead to the complaint of plaintiff.

Your petitioner offers herewith good and sufficient surety for entering in the circuit court of the United States for the western district of Texas, on the first day of its next session, a copy of the record in this suit, and for paying all costs that may be awarded by said circuit court if said court shall hold that this suit was wrongfully or improperly removed thereto.

Your petitioner prays this honorable court to proceed no further herein except to make an order for the removal of this cause to the said circuit court, and to accept the said surety and bond, and to cause the record herein to be removed into the said circuit court of the United States for the western district of Texas; and your petitioner will ever pray.

T. D. COBBS,
*Attorney for Petitioner.*

(Filed this the 6th day of March, 1893.
C. E. WAY, *Clerk.*)

*Bond for Removal.*

Filed March 6, 1893.

61 THE STATE OF TEXAS *vs.* GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY. } #101. Suit Pending in the District Court of Brewster County, Texas.

Know all men by these presents that we, The Galveston, Harrisburg & San Antonio Railway Company, as principal, and E. P. Hill and W. N. Shaw, as sureties, are holden and firmly bound unto the State of Texas in the penal sum of one thousand dollars ($1,000.00); for the payment whereof, well and truly to be made unto the said State of Texas, we bind ourselves, our heirs, representatives, and assigns, jointly and severally, firmly by these presents.

Upon condition, nevertheless, that whereas the said Galveston, Harrisburg & San Antonio Railway Company having petitioned the honorable district court of the State of Texas in and for the county of Brewster for the removal of a certain cause therein pending, wherein The State of Texas is plaintiff and the said Galveston, Harrisburg & San Antonio Railway Company is defendant, to the



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circuit court of the United States in and for the northern district of Texas:

Now, if the said Galveston, Harrisburg and San Antonio Railway Company shall enter in the said circuit court of the United States for the western district of Texas, on the first day of its next session, a copy of the record in the said suit and shall well and truly pay all costs that may be awarded by said circuit court of the United States if said court shall hold that said suit was wrongfully or improperly removed thereto, then this obligation shall be void; otherwise to remain in full force and effect.

In witness whereof the said sureties have hereunto set their hands this the 27th day of February, A. D. 1893.

G., H. & S. A. R'Y CO.,
By T. D. COBBS.
E. P. HILL.
W. N. SHAW.

THE STATE OF TEXAS, }
*County of Harris.* }

I, E. P. Hill, of said county and State, one of the sureties named in the foregoing bond, being duly sworn, doth depose and
62 say: I am a resident of the State of Texas and a property-holder therein; that I am worth the sum of one thousand ($1,000.00) dollars over and above all my debts and liabilities and exclusive of property by law exempt from execution.

That I have property in the State of Texas liable to execution of the value of more than one thousand dollars.

E. P. HILL.

Sworn to and subscribed in my presence by E. P. Hill and by him sworn to before me this the 27th day of February, A. D. 1893.

Witness my hand and seal of office, at Houston, this the 27th day of February, A. D. 1893.

[SEAL.]

G. H. PENDARVIS,
*Notary Public, Harris Co., Texas.*

THE STATE OF TEXAS, }
*County of Harris.* }

I, W. N. Shaw, of said county and State, one of the sureties named in the foregoing bond, being duly sworn, doth depose and say: I am a resident of the State of Texas and a property-holder therein; that I am worth the sum of one thousand ($1,000.00) — over and above all of my debts and liabilities and exclusive of property by law exempt from execution; that I have property in the State of Texas liable to execution of the value of more than one thousand dollars.

W. N. SHAW.

Sworn to and subscribed in my presence by W. N. Shaw and by him sworn to before me this the 27th day of Feb'y, A. D. 1893.

Witness my hand and seal of office, at Houston, this 27th day of Feb'y, A. D. 1893.

[SEAL.]

G. H. PENDARVIS,
*Notary Public, Harris Co., Texas.*

I hereby certify that the sureties, W. N. Shaw and E. P. Hill, on the above bond are known to me and that I know them to be solvent, and that if a similar bond were offered to me with said E. P. Hill and W. N. Shaw as sureties I would not hesitate to accept the same.

Given under my hand this the 27th day of Feb'y, A. D. 1893.

S. H. BRASHEAR,
*Judge 11th Judicial District of Texas.*

63 Approved March 6th, 1893.
C. E. WAY, *Clerk.*

(Filed this the 6th day of March, 1893.
C. E. WAY, *Clerk.*)

*Defendant's Original Answer.*

Filed March 13, 1893.

In the District Court of Brewster County, Texas.

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY.

And now comes the defendant herein and demurs to plaintiff's petition filed in this cause, and for ground of demurrer say- that the same is wholly insufficient to have and to recover from defendant in the manner and form as alleged, and of this prays the judgment of the court.

T. D. COBBS,
*Attorney for Defendant.*

And by way of plea in this behalf, should said demurrer be overruled, then defendant avers that heretofore, to wit, on the 1st day of June, 1880, defendant company, as party of the first part, made, executed, and delivered to Andrew Pierce and George F. Stone, trustees, as parties of the second part, a second mortgage and deed of trust upon all and singular of the main line of said railroad as the same was then built from Harrisburg and Houston, in Harris county, to San Antonio, in Bexar county, in said State of Texas, being a distance of about two hundred and twenty-five (225) miles, together with all the franchises and rights so far as necessary to the proper enjoyment of said railroad from said Harrisburg and Houston to San Antonio, etc., etc., etc.; "also all and singular the lands, locations, surveys, land script, and rights to lands that have been or

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may be hereafter acquired by said party of the first part for
64 the construction of its main line of railroad from Harrisburg and Houston to San Antonio by virtue of any general or special acts of the legislature making donations of public lands, excepting such of said lands, locations, surveys, land script, or rights to lands as said party of the first part has heretofore disposed of by sale, together with all the estate, franchises, rights, title, interest, property, possession, claim, demand, and expectancy whatsoever, as well in law as in equity, of the said party of the first part in or to or of the said lands, locations, surveys, land scrip, and rights to lands or any part of the same, with all the privileges and appurtenances to the same belonging or appertaining."

That Andrew Pierce is dead and George F. Stone is now the sole surviving trustee under the mortgage to act; that said deed of trust was given to secure the second-mortgage gold bonds of said defendant company in a series of one thousand bonds of one thousand ($1,000.00) dollars each, numbered from one to one thousand, inclusive.

That said mortgage and said bonds are still subsisting, unpaid and unsatisfied.

That said defendant company, under the said charter and amendments and under the laws of Texas, were fully authorized to issue bonds and fully authorized to mortgage its land grants for the purpose of building, constructing, and equipping its railroad; that said mortgage bonds constituted a lien upon said lands to such an extent and in such way as any decree rendered in said cause would affect said bonds and security and the interest of the holders to such an extent as defendant believes, and so alleges, that said surviving trustee of said bonds is a necessary party thereto.

That said bonds, to the amount of one million ($1,000,000.00) dollars, were issued for valuable consideration under the said mortgage and by virtue of the laws of Texas authorizing the same prior to the institution of this suit, and that each and all of said bonds, as hereinbefore alleged, are still outstanding and in the hands of *bona fide* holders for value.

That said mortgage has been duly and legally recorded long prior to the institution of this suit in the counties in which said lands were situated, giving constructive notice thereof to the world, and particularly to plaintiff.

Wherefore defendant pleads the non-joinder of said George
65 F. Stone a necessary party hereto, and prays that the said cause be abated unless the said George F. Stone, as trustee as aforesaid, be made a party to this suit under proper terms to be prescribed by the court.

And of this plea the defendant prays the judgment of the court.

T. D. COBBS,
*Attorney for Defendant.*

Sworn to and subscribed before me this the 13th day of March, A. D. 1893.

[SEAL.]

C. E. WAY,
*D. C., B. Co., Texas.*

I.

Should said defendant's exceptions and plea be overruled, then defendant denies each and every allegation in plaintiff's petition contained, except when any part of the same is hereafter admitted to be true.

II.

Defendant admits that it received all the certificates described in plaintiff's petition; admits the number and date of issuance as therein stated; admits that the said certificates were surveyed as therein stated, and that the survey number, block number, and county wherein located are as therein stated.

III.

Defendant, further answering, sayeth that it is a corporation incorporated under the laws of Texas on the 11th day of February, 1850; that said company was invested with the right to construct, own, and maintain a railway commencing at any suitable point on Buffalo bayou between Lynchburg and Houston, in the county of Harris, thence running by such course and to such point at or near the Brazos river between the town- of Richmond and Washington, inclusive, as such company shall deem most suitable.

The corporate name of said company was the Buffalo Bayou, Brazos and Colorado Railway Company.

The charter of said company was amended on the 31st day of January, 1852, by the legislature, which authorized said railway company to acquire by purchase or gift any real estate the directors shall think desirable in order to promote or hasten the con-
66 struction of said railway. They were authorized to borrow money on their bonds or notes at such rates as shall be deemed expedient and mortgage their property to secure the same.

That on the 29th day of January, 1853, the said railway company, by an amended act of the legislature, were authorized to locate, construct, own, and maintain a railway commencing at a suitable point on Buffalo bayou, in Harris county, and thence running by such course and to such point or points at or near the Brazos and Colorado rivers or across the same as said company may deem feasible, with the privilege of making, owning, and maintaining such branches to said road as they may deem expedient.

It is further provided that there shall be granted to said company eight sections of land for 640 acres each for every mile of railway actually completed and ready for use.

Again, on the 4th day of February, 1854, the said charter was so amended by an act of the legislature as to entitle it to all the rights, privileges, and benefits to accrue from any general law or laws that have or may hereafter be passed in this State to encourage the construction of railroads in the same manner and to the same extent as if the gague of said road was the same now fixed or which may be hereafter fixed by the State.

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By virtue of another act of the legislature passed Feb'y 4, 1854, the company was required, in order to avail itself of the act of which the said act was a supplement, to accept any donation of land from the State. They shall not be entitled to receive any such donation under the provisions of this law that has been heretofore passed on any portion of the road which has not been completed or ready for use within ten years from and after the passage of this act, provided that said company shall restrict themselves to the following route, viz., to an extension of their existing road to Austin, in Travis county, crossing the Brazos river at any point between the town of Richmond, in Fort Bend county, and the town of Hidalgo Falls, in Washington county, and with the right of extending their road from Austin to connect with any road running north of Austin towards the Pacific ocean, providing such connection be made between the 96th and 98th parallel of longitude; and provided further that said company shall have no right to build *franchises*
67 from their main line.

Again, on the 27th day of July, 1870, an act was passed by the legislature supplementary to the act to incorporate the Buffalo Bayou, Brazos and Colorado Railroad Company and to the other acts relating to said company providing for the consolidation of its property and the extending of its said road.

The first section of said supplementary act changed the name of the railway company so that it should be known thereafter by the corporate name of the Galveston, Harrisburg & San Antonio Railway Company.

It was provided by the third section of said act that the said company was authorized to extend the existing line of railway owned and operated by said company from Columbus, in Colorado county, to San Antonio, within the county of Bexar, within four years from the passage of this act, and thence to a terminus on the Rio Grande by such route as the directors shall deem feasible, with a branch from the most suitable point to New Braunfels, in Comal county, within four years from the passage of this act, or said new company may connect with any line of railroad that may be constructed or under construction to San Antonio or the Rio Grande south of the latitude of the city of Austin and Colorado river, instead of building its own line beyond the point of such connection, and may build to and connect with any line of railway that may be constructed or under construction, and it is not to form any part of any railroad line to the Pacific south of the 25″ parallel of latitude, nothing therein being so construed as to exclude such new company from the right to construct any part of the line up the Colorado valley formerly designated by said "sold out" company as to its route under the provisions of the 11th section of the act of *the 11th of* December 19th, 1857, and further provided, in section 4, that said new company may consolidate with its existing railroad the bridge built by the Brazos Iron Bridge Company over the Brazos river at Richmond, and the five miles of railroad, more or less, including side tracks, from the town of Alleyton to the town of Columbus, built under the charter granted in the year 1860 to the Columbus

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Tap Railroad Company, including the bridge over the Colorado river at Columbus, together with all the franchises, rights, fixtures, and appurtenances of or upon any of the same, and may construct and maintain telegraphs along its line.

68 It is further provided in section 8 of said supplementary act, in case it shall be made to appear to the governor that there has not been issued upon said railroad the full quantity of 16 sections of land scrip for every mile of same that was constructed and put in order prior to the war of the late rebellion in accordance with the provisions of the charter and the general laws of the State in force at the time regulating railroads, there shall be issued to said new company said scrip to the amount of any such deficiency, notwithstanding the said railroad may not have been constructed and completed at the rate of twenty-five miles each year for the construction of the first twenty-five miles, as provided in the act of January 30, 1854.

It is further provided in section II that said new company shall be entitled to the same or similar rights and relief (except State aid in bonds or endorsement of or guarantee of interest on bonds) granted to or provided for any other railroad company by the legislature, and upon the same or similar terms and conditions so far as such rights and relief are in their character applicable to said new company or its line or lines of railroads.

IV.

Defendant, further answering in this behalf, represents that the legislature of the State of Texas, on the 13th day of November, 1866, passed an act for the benefit of railroad companies. The first section provided that the granting of sixteen sections of land to the mile to railroad companies heretofore or hereafter constructing railroads in Texas shall be extended under the same restrictions and limitations provided by law for ten years after the passage of the act.

V.

Defendant further represents that the legislature, on the 10th day of March, 1875, passed a law granting to the Galveston, Harrisburg & San Antonio Railway Company until the 28th day of January, 1876, to complete its said road to the city of San Antonio.

VI.

Defendant represents that by the constitution of the State of Texas, article 10, section 6, of 1869, it was provided as follows: "The legislature shall not hereafter grant lands to any person or persons, nor shall any certificates for lands be sold at the land office except to actual settlers upon the same and in lots not exceeding 160

69 acres." An amendment to said provision of the constitution was voted by the people of the State of Texas at an election held on the 5th, 6th, 7th, and 8th days of November, 1872, whereby it was provided "that the legislature of the State of Texas shall not

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hereafter grant lands except for purposes of internal improvements to any person or persons, nor shall any certificate of land be sold to any one except to actual settlers upon the same and in lots not exceeding 160 acres, provided that the legislature shall not grant out of the public domain more than twenty sections for each mile completed in aiding in the construction of which lands may be granted; and provided, further, that nothing in the foregoing proviso shall effect any rights granted or secured by laws passed prior to the final adoption of this amendment." The said amendment to the constitution was by an act of the legislature approved March 19, 1873.

That upon the adoption of said amendment to the constitution the legislature of Texas proceeded to grant to and provide for a large number of railroad rights to sixteen sections of land to the mile of completed road, as will more fully appear by reference to the special laws of the legislature, and defendant thereupon proceeded to construct its road from Columbus to the Guadalupe river and did construct the same, relying in good faith upon the promise, agreement, and undertaking of the State, as fully set forth in said section eleven of defendant's amended charter of May 27, 1870, and did from time to time receive the lands sued for as said construction proceeded, and was completed in accordance with law.

On the 16th of August, 1876, the legislature of the State of Texas passed a general law granting sixteen sections of land for every mile of its road completed and put in running order.

On the 22nd day of April, 1882, the legislature of the State of Texas passed a law repealing the laws and parts of laws then in force granting lands or land certificates to any person, firm, corporation, or company for the construction of railroads, canals, and ditches.

So defendant avers, as aforesaid, that it is entitled to said lands and to have the title thereto vested in it, as aforesaid, for the following additional reasons:

First. Because it is entitled to said lands by virtue of its said legislative charter and amendments thereto and by virtue of
70 the said general laws applicable to railroad companies passed prior to the constitution of 1869, and it avers that its rights thereunder were not intended to be affected and could not be affected or impaired by the prohibition contained in article ten, section six, of the constitution of 1869, the same being within the protection of section ten, article first, of the Constitution of the United States and of the fourteenth amendment thereof.

Second. Because it is entitled to said lands by virtue of an act of the legislature passed July 27, 1870, entitled "An act supplemental to an act to incorporate the Buffalo Bayou, Brazos and Colorado Railway Company and to other special acts relative to said railroad company," and by virtue of the amendment to article ten, section six, of the constitution of 1869, voted in 1872 and approved March 19, 1873, said constitutional amendment relating back as of the date of the adoption of the constitution of 1869 and removing all constitutional inhibition, if any, against legislative grants of

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lands in aid of railway companies and giving full force and effect to the provisions of said act of 1870 and prior legislation.

Third. Because it is entitled to said land by force and virtue of the provisions of section II of the said act of 1870 supplementary to its charter, and by reason of the fact that subsequently to the amendment to the constitution made in 1873 the legislature proceeded to and did make numerous and specific grants of sixteen sections of land per mile of completed road to other roads in this State; and defendant, relying upon the said provisions in its charter, commenced and continued the construction of its road thereafter in good faith and in reliance upon the recognition and performance by the plaintiff of its obligation to accord to defendant equal rights with other roads in favor of which special land grants of sixteen sections of land to the completed mile of railroad had been made.

Fourth. Because if it was not otherwise entitled thereto it was entitled to have and receive said lands by force and virtue of the provisions of said act of August 15, 1876, and by reason of the fact that on the faith of and in reliance upon the provisions of said act this defendant constructed that portion of its road between San Antonio and El Paso, consisting of six hundred and twenty-three and fourteen hundred- (623.14) miles, and defendant avers
71 that it thereby became entitled to receive from the State sixteen (16) sections of land for each mile of said completed road, aggregating six million three hundred and eighty thousand nine hundred and fifty-three and six-tenths (6,380,953.6), and that if it is not otherwise entitled to the land sued for herein by the State it is entitled to receive the same as part of the lands earned by it by the construction of its road, as aforesaid, between San Antonio and El Paso, which said road was constructed subsequent to August 15, 1876.

## VII.

Defendant further avers that the decision- of the governor of the State of Texas that the said defendant company had done and performed the conditions precedent to the right to said lands and to all the necessary antecedent acts before the issue to said company of any certificates for said lands were and are conclusive against the State, and that said governor is and was by the various legislative acts hereinbefore alleged constituted the sole and final judge whether or not said antecedent acts have been performed, and that the title vested in said railway company by the certificate of the commissioner of the general land office and surveys thereunder pursuant to the findings and decisions of the governor of the State of Texas vested a full and perfect title to said lands in said railway company, which title has been legally acquired by your defendant aforesaid.

## VIII.

Defendant further represents that by reason of the construction placed upon said laws and charters by all the departments of the State government and by reason of said grants of land to said de-



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fendant company credit was given to it in the money markets of the world, and it was enabled to raise and procure money for the purpose of constructing and extending its said railway by the mortgaging of said lands and all other property duly authorized by said legislature of the State of Texas; that said lands form a most important element in the credit originally obtained by said defendant company as the basis of floating its bonds; that said bonds were secured by deed of trust; that during more than ten years the State of Texas and her officials have stood by and allowed the assertion of title by defendant company in and to said lands, whereby credit was obtained as aforesaid, and that said State and said officials are therefore now estopped by laches from setting up any title in
72 and to said lands; that the demand made by said State is a stale demand, and that the defendant specially pleads laches, stale demands, and estoppel in bar of any claim so set up by the said State of Texas.

IX.

Defendant, further answering and by way of cross-bill or plea in reconvention, represents that in pursuance with said laws, general and special, and by virtue of the original charter granted to said railway company and its amendments that there arose between the said State of Texas and defendant a contract whereby the defendant was entitled to a grant of sixteen sections of land for each mile of its completed road from the State of Texas.

X.

Defendant represents that said railway company, together with its turnouts, is a distance of 847.13 miles, extending from Harris county to the Rio Grande river in El Paso county.

XI.

Defendant represents that the distance from San Antonio to the Rio Grande river in El Paso county is 623.14 miles.

XII.

Defendant further represents that the said defendant completed and put in running order its track from San Antonio to Rio Grande river in El Paso prior to the 22nd day of April, 1882, and under the laws aforesaid said defendant became entitled, at the rate of sixteen sections per mile of completed road, to 9,970.24 sections, entitling the said defendant company to locate by virtue thereof 6,380,953.6 acres of the unappropriated public domain of the State of Texas and at which time there was more than that quantity of unappropriated public domain.

XIII.

Defendant represents that it did not make application to the governor for the inspection of any part of the completed line of its

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railroad from San Antonio to the Rio Grande river in El Paso county, except a distance of 11 miles inspected, until on or about the 9th day of May, 1882, at which time the defendant, through H. B. Andrews, vice-president thereof, made application to Hon. O. M. Roberts, the then governor of the State of Texas, for a civil engineer to examine a portion of the completed road west of the city
73 of San Antonio, as aforesaid; whereupon the said governor refused to appoint an engineer for the inspection of 460 miles of road west of San Antonio, because he claimed that the law granting certificates for lands to railroads had then been repealed.

XIV.

Defendant, further answering, sayeth that if this honorable court should hold that any of the lands claimed by plaintiff in this cause were granted to said railway for sidings and turnouts, and that said lands therefor or for any other reason whatever should not have been legally granted to said company, nevertheless that said defendant company was at all times prior to the institution of said suit entitled to said lands, because it sayeth that at all times prior thereto it was entitled to a large number of valid certificates, as aforesaid, to wit, 9,970.24, which it never received, as aforesaid, and at all times prior thereto, under a proper accounting with the said State of Texas, was entitled to have issued to it and located upon lands amounting to at least 6,380,953.6 acres, to which it was legally entitled to have and hold and which the State of Texas, without regard to the right of defendant, has refused to grant certificates therefor or in any way to recognize defendant's right thereto.

XV.

Defendant, further answering, represents that by reason of the act of the State of Texas and all the officers of said State, the repeal of the said law on the 22nd day of April, and the action of the governor in refusing to appoint an engineer to inspect said railway west of San Antonio was a deprivation of defendant's right to said land under its said charter and the general and special laws of the State of Texas and did constitute an impairment of the contract entered into between said State and said railroad company through the charter and legislation aforesaid and in violation of section 10, article 1, of the Constitution of the United States, which declares "No state shall pass any law impairing the obligation of contracts," and in violation of the 14th article of amendments to said Constitution, which provides: "Nor shall any State deprive any person of life, liberty, or property without due process of law."

That defendant company, prior to the institution of this suit, in good faith and for a valuable consideration, conveyed to a
74 number of persons some of the sections of land sued for.

Wherefore defendant prays that, having answered so much of plaintiff's petition as *they are* advised it is necessary to do, ask to be hence dismissed with *their* reasonable cost in this behalf most wrongfully sustained; and defendant further prays:

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1.

That it may please your honor to declare and decree that the location and survey as aforesaid made by the G., H. & S. A. Railroad Company of the lands described in plaintiff's petition segregated the same from the mass of the public domain and became the property of said defendant free from any and all claims on the part of the State of Texas, and that the said railroad company thereby acquired a good and valid title thereto.

2.

That it may please your honor to adjudge and decree that by reason of the completion of its said railway west from San Antonio to the Rio Grande river in El Paso county, a distance of 623.14 miles, that the said defendant company became entitled to 9,970.24 certificates, authorizing the said railway company to locate 640 acres of land by virtue of each certificate, amounting to 6,380,953.6, and that defendant have a decree in its favor declaring that the said railway company is entitled to the same from the said State of Texas, and that the said defendant in all respects and in all particulars complied with the law then in force in constructing the same, and that under such laws, general and special, and its charters the State of Texas should have issued the land certificates in accordance therewith.

And if in the power of this court so to do, then for judgment for said land certificates aforesaid, requiring same to be issued to defendant.

That your honor do render a decree mandatory in its terms, commanding and directing the commissioner of the general land office of the State of Texas to issue to defendant patents for the lands herein sued for and described in plaintiff's petition in all cases where such patents have not already been issued to said railway company.

4.

And defendant further prays that if the judgment and decree herein asked for shall not be effective to secure obedience
75 thereto in the issuance of such patents to defendant, evidencing the title to the land as herein claimed, then defendant prays that the said decree be so made and framed that the same shall declare and adjudge the title in the said lands to be vested in defendant railway company in fee-simple and shall itself operate and serve as a muniment of title thereto.

5.

Defendant further prays that if it has not asked for appropriate relief that it have such further orders and decrees as may be necessary and proper in the premises to secure to it its rights, to

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general and special relief, and for all its costs in this behalf incurred.

T. D. COBBS,
*Attorney for Defendant.*

(Filed March 13, 1893.
C. E. WAY, *Clerk.*)

*Order of Court Denying Application for Removal.*

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY. } # 101.

MAR. 13TH, 1893.

On this day the petition and bond of the defendant to move this cause to the circuit court of the United States were presented in open court, and, the court having inspected the same, the petition to remove said cause to the circuit court of the United States is denied; to which defendant excepted; conditions of bond and sureties on bond held sufficient.

76 *Defendant's Plea, Protest, and Motion.*

Filed Sept. 13, 1893.

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY.

And now comes the defendant in the above-stated cause and represents to this honorable court that the defendant company filed a petition and bond for removal of said cause to the United States circuit court for the western district of Texas on the 6th day of March, 1893.

That said petition and bond was filed at the last term of this court at or before the time when defendant was required, under the law and rules of court, to answer in said cause; that defendant in due time and on the 13th day of March, 1893, presented the same to this court and requested the court to make an order granting the removal and to proceed no further with said cause; which order the court refused to make.

That defendant immediately and forthwith procured a record of said cause and filed the same in the United States circuit court for the western district of Texas, at El Paso, where the same is now pending, and is numbered 171 on the docket of said court, as appears from the certificate of the clerk of said court hereto attached as a part of this motion and marked "Exhibit A."

The record in said cause shows the issues involved depend on the construction of the Constitution and laws of the United States and present Federal questions.

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Among other Federal questions raised in said record by the answer of defendant it was shown that defendant acquired a vested right to land certificates prior to the repeal of the law withdrawing the public domain, and there is drawn in question the validity of the act of the legislature of Texas passed April 28, 1882, withdrawing the grants of land to railroad companies, and especially to this railroad.

Wherefore defendant shows this court by reason of the premises that it is without jurisdiction to try this cause, because the same has been under the law of Congress prôperly removed to
77 the United States circuit court for the western district of Texas, at El Paso, where the same is pending for trial and numbered 171 on the docket thereof, and of which the said United States circuit court has the sole and exclusive jurisdiction to try said cause.

Defendant therefore prays this honorable court to proceed no further herein, and herewith enters its protest against any further proceeding by the court herein. Wherefore, etc.

T. D. COBBS,
*Att'y for Defendant.*

In the United States Circuit Court for the Western District of Texas, at El Paso.

THE STATE OF TEXAS
*vs.*
G., H. & S. A. R'Y Co. } 171.

I, D. H. Hart, clerk of the said United States circuit court, do hereby certify that the record of the foregoing cause, which is numbered 101 on the docket of district court of Brewster county, has been filed in this court, where the same is on the docket of this court as number 171 and now pending for trial under the law authorizing the removal of causes from the State court to the United States court.

To all of which I certify under my hand and seal of court this the 28th day of August, A. D. 1893.

D. H. HART,
*Clerk of the United States Court,*
By WARNER A. GIBBS, *Dep.*

[SEAL.]

(Filed Sept. 13, 1893.
C. E. WAY, *Clerk.*)

*Bill of Exceptions No.* 1.

Filed Sept. 13, 1893.

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY. } Pending in the District Court of Brewster County, Texas.

78 Be it remembered that on the trial of the above-stated cause the defendant railway company filed a petition and

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bond for the removal of said cause on the 6th day of March, 1893, praying the court to make an order for the removal of said cause to the circuit court of the United States for the western district of Texas and to accept the said surety and bond and to cause the record therein to be removed unto the circuit court of the United States for the western district of Texas.

That the same was presented to said court at its first regular term thereafter, which was on the 13th day of March, 1893.

All of which, together with defendant's answer, was filed at or before the time when defendant was required by the laws of the State of Texas and the rule of said court in which the said suit was brought to answer or plead to the complaint of plaintiff.

And on said last-named day the court refused and declined to grant the order of removal; to which action the defendant duly excepted.

And whereas on this day the defendant now exhibits a motion in the shape of a plea in which defendant has attached a certificate as follows:

In the United States Circuit Court for the Western District of Texas, at El Paso.

THE STATE OF TEXAS *vs.* G., H. & S. A. R'Y CO. } No. 171.

I, D. H. Hart, clerk of the said United States circuit court, do hereby certify that the record of the foregoing cause, which is numbered 101 on the docket of the district court of Brewster county, has been filed in this court, where the same is on the docket of this court as number 171 and now pending for trial under the law authorizing the removal of causes from the State court to the United States court.

To all of which I certify under my hand and seal of court this the 28th day of August, A. D. 1893.

[Seal of United States Court.]

(Signed) D. H. HART,
*Clerk of the United States Court,*
By WARNER A. GIBBS, *Dep.*

79 Showing that a record of this cause has been duly filed in the United States circuit court for the western district of Texas, at El Paso, being numbered 171 on the docket of said court.

And whereas the defendant in said motion represents that by reason of the premises this court is without jurisdiction to try said cause because the same has been under the law of Congress properly removed to the United States circuit court for the western district of Texas, at El Paso, where the same is pending for trial, and numbered 171 on the docket thereof; that this court is without jurisdiction, and praying this court to proceed no further; which plea or motion being overruled by the court, the court thereupon

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proceeded with the trial of said cause; whereupon defendant protested against the action of the court in overruling the said motion and proceeding with the trial of said cause; and the said defendant, still protesting and objecting to the action of said court, presents this its bill of exceptions No. 1 and requests that same be signed by the said court and made a part of the record in said cause.

T. D. COBBS,
*Attorney for Defendant.*

Approved this the 13th day of September, A. D. 1893, and ordered to be made a part of the record of this cause.

WALTER GILLIS,
*Judge 41st Judicial District.*

(Filed Sept. 13, 1893.
C. E. WAY, *Clerk.*)

*Plaintiff's First Supplemental Petition.*

Filed Sept. 13, 1893.

In District Court of Brewster Co.

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY CO.

80 Leave of the court had, plaintiff filed its first amended supplemental answer.

Plaintiff demurs generally to defendant's answer and upon its sufficiency asks judgment of the court.

And plaintiff especially excepts to defendant's answer and makes following assignment:

Plaintiff excepts to all that part of defendant's answer which sets up that said defendant company executed mortgage and deed of trust and prays that trustees be made parties; and pl't'ff prays that its plea in this behalf be overruled.

Plaintiff further especially excepts to section IV of said answer because said act of Nov. 13, 1866, therein referred to was unconstitutional and void, being in conflict with sec. 25, article VII, of the constitution of 1845, 1861, and 1866, and, further, because if said law is not void — was repealed by the adoption of the constitution of 1869, and especially by article VI, sec. 10, thereof, which provides that "the legislature shall not hereafter grant lands to any person or persons, nor shall any certificates for land be sold at the land office except to actual settlers upon the same and lots not exceeding one hundred and sixty acres;" which said constitutional provision took effect prior to July 27, 1870, when, as shown in said defendant's answer, defendant was for the first time authorized to construct that part of its road for which certificates mentioned in this cause were issued. Wherefore plaintiff prays that said section should be stricken from defendant's answer.

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Plaintiff especially excepts to sec. V of defendant's answer because the law of March 10, 1875, therein referred to granting said company to January, 1876, to complete its road to the city of San Antonio was passed after the construction of that part of defendant's road for which certificates herein mentioned were attempted to be given.

Upon this plaintiff asks judgment of the court, and that said section be stricken out of the answer.

Plaintiff especially excepts to section VI of said answer, which recites the adoption of the constitutional amendment of March 19, 1873, and to the effect that upon the adoption of that amendment the legislature proceeded to provide for a large number of railroads' rights to sixteen sections of land to the mile of completed road
81 and referring to section 11 of the special acts of July 27, 1870, for the following reasons:

(1.) Said law of July 27, 1870, was, if a law at all, a complete and perfect law at the time of its passage and was not dependent upon constitutional amendments adopted subsequent thereto, nor were its terms and provisions enlarged thereby nor by any special or other acts passed subsequent thereto.

(2.) The legislature did not have at the time of the passage of said law authority to grant lands in aid of the construction of railways and did not grant or attempt to grant land to defendant company for the construction of that part of its road from Columbus to Guadalupe river.

(3.) By section 11 said legislature attempted to grant only such rights or relief as was then in other companies and not such as might thereafter be acquired. Plaintiff prays, therefore, that part of its answer mentioned be stricken out.

Plaintiff especially excepts to those parts of section VI of defendant's answer which state that in 1876 the legislature passed a general law granting lands to railroads, and that in 1882 a law was passed repealing said first-named law, because both acts were passed subsequent to the construction of that part of defendant's road between Columbus and Guadalupe River bridge.

Wherefore plaintiff prays that the parts mentioned be stricken out.

Plaintiff excepts to those parts of section VI of defendant's answer as set forth its conclusions why plaintiff should not recover as follows:

To *his* first reason because all valid general laws providing for donation of land to railroads prior to 1869 were inoperative by their very terms before the time of the construction of said part of said road because all of said acts were repealed by the constitution of 1869 and because said acts were not constructive and their repeal did not conflict with any provisions of the Constitution of the United States.

To *his* second reason because the adoption of the constitutional amendment of 1873 did not "relate back" to an act passed in 1870.

To its third reason because "numerous and specific grants of sixteen sections of land per mile of completed road in this State"



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82 made in 1873 does not amend a special act made for another company in 1870.

To its fourth reason because the act of August 15, 1876, granting land for road thereafter constructed did not provide for donations of land for road theretofore constructed.

To *his* fifth reason because if defendant is or was entitled to any land for constructing a road from San Antonio to El Paso, its right thereto was entirely distinct and independent of any right to land for the construction of a road to Guadalupe River bridge arising under laws passed after said last-named portion of said road was constructed, and was an indefinite and undefined right to land, and was not a right to the land in suit. For the causes named plaintiff prays that the balance of said section VI and all recitals and matters of inducement leading thereto be stricken from the answer.

Plaintiff especially excepts to section VII of said answer, because there was no condition upon which said lands could have been secured by defendant for the construction of that part of its road between Columbus and Guadalupe River bridge and because the governor of the State of Texas was not sole and final judge as to whether or not defendant was entitled to land, but was, together with the commissioner of the general land office, but an agent of the State, and was on the matter in suit entirely without authority to act. Wherefore said section should be stricken from the answer, and plaintiff so prays.

Plaintiff especially excepts to section VIII of defendant's answer, because no act has been done by the State of Texas or any one authorized to act for her by which defendant company or her creditors were misled, but of her acts and laws all the world has notice, and because plaintiff is not defendant upon any enforced equity, but relies upon an absolute legal title, against which — can present no claim whatever. Wherefore plaintiff prays said section be stricken from the answer.

Plaintiff especially excepts to section- IX, X, XI, XII, XIII, XIV, and XV of defendant's answer, constituting what he calls cross-bill or plea in reconvention, for the following reasons:

(1.) Because said cross-bill — in fact and in effect a suit against the State of Texas instituted without her permission.

(2.) Because this is not a suit "brought for the recovery of any debt due by judgment, bond, bill, or otherwise," nor is de-

83 fendant's counter-claim "formed on a cause of action arising out of or incident to or connected with the plaintiff's cause of action."

(3.) Because this is a suit for specific property, and cannot be set by a claim indefinite, intangible, and uncertain in character and amount.

(4.) Because no claim arose against the State of Texas by reason of the facts alleged in defendant's answer, for the reason that before — acquired any right under said law it was, as shown by said answer, repealed.

(5.) Because said lands herein sued for were — located nor sur-

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veyed by virtue of any land certificates granted defendant for constructing its road from San Antonio to Rio Grande City.

And plaintiff especially excepts to prayer No. 2 in said cross-bill, because it is not a part of the duty of this court to make declarations of abstract rights or decrees which it does not pretend to be able to enforce, and because it is not within the power or authority of this court to issue a mandamus to the commissioner of the general land office of Texas.

And plaintiff prays that all of defendant's plea in reconvention, together with his prayers, be held insufficient and struck out of his answer.

Plaintiff further, by way of replication, says that before the passage of the law of 1882 mentioned by defendant all of the public domain of Texas had been appropriated, and of this he now offers proof.

THE STATE OF TEXAS, }
*County of Brewster.* }

In the District Court of said County, September Term, 1893.

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY. } No. —.

Plaintiff by way of replication further says that heretofore, to wit, on the 3rd day of February, 1890, The State of Texas, plaintiff in the present action, by a suit against The Galveston, Harrisburg & San Antonio Railway Co., defendant in the present action in the district court of Val Verde county, Texas, for about 396,160 acres of land located and surveyed by virtue of certificates issued to said defendant company for the construction of that portion of
84 defendant's road at the rate of 16 sections of land per mile between the Guadalupe River bridge and San Antonio.

That in the trial of said cause before the supreme court of the State of Texas and in the final adjudication thereof the defendant company depended upon the act of August 15, 1876, which reads as follows:

"An act to encourage the construction of railroads in Texas by donations of lands.

SECTION 1. Be it enacted by the legislature of the State of Texas: That any railroad company heretofore chartered, or which may be hereafter organized under the general laws of this State, shall upon the completion of a section of ten miles or more of its road, be entitled to receive, and there is hereby granted to every such railroad from the State, sixteen sections of land for every mile of its road so completed and put in running order; provided that no company whose road is less than three feet gag*ue* shall be entitled to receive any grant of lands under this section; provided further that com-

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panies constructing railroads on the prismoidal plan shall be entitled to eight sections of land per mile on the same terms as other roads; provided further that this act shall not be construed to renew or continue any right to companies who have failed or may fail to comply with the terms of their charters; with reference to the completion of portions of their roads in stated times; provided; further the provisions of this act shall not be so construed as to grant the aid herein provided for to any railroad that has already received or is otherwise entitled to receive aid from the State to the amount of sixteen sections of land to the mile."

Said company, in order to escape the last two provisos in section 1 of said act, contended that said company had never received and had never been entitled to receive aid from the State to the amount of sixteen sections of land to the mile for any part of the road which had prior to that time been constructed from Columbus to the Guadalupe River bridge.

The defendant in that action made a contention in the following language: "That theory of the act is that if a company has had a land grant in respect of its line and has failed to comply with the terms of its charter with reference to completion of portions
85 of its road in stated times, this chapter should not be construed to renew or continue the right to acquire land in respect of the same. This could not be applicable to a corporation which had never had the right to acquire lands in respect to the road in question, and in respect of which, therefore, there was no right which could by any possibility be renewed or continued. In respect of such a line the provisions as — the renewal or continuance could not be applicable, and there is no proviso which in anywise impairs the effect of the act as a fresh grant except the statement in the last clause that it shall not operate as a fresh grant when a road has already received or is otherwise entitled to receive aid to the amount of sixteen sections of land to the mile. There is nothing in the act which withdraws the grant therein contained from any company which, not having had land grant at all in respect of of its line, had failed to complete it within the prescribed time. The theory of the act seems clear upon its terms and reasonable in its provisions that if a company had had a grant and had failed to build the road under the inducement of the grant and in view of the benefits and advantages to be derived therefrom—that is to say, in consideration of the premiums which the State at that time considered it desirable to offer in order to secure construction of roads.

Article 4270 provides that it shall not be construed to renew or continue any right to any company which has failed or may fail to comply with the terms of its charter with reference to completion of portions of its road in stated times.

That could not be applicable to appellant, because it then had no right to earn lands which might or could be renewed or continued. If there was no right which could by any possibility be renewed or continued, this proviso could not, of course, affect the appellant if it were in the position of having no right to earn lands.

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The meaning of this section of the Revised Statutes would seem to be that if, notwithstanding it had a land grant, a company had not built its road in time, this act should not renew or continue it; if it already had a grant, this act should not give it another. Neither of these affects a company in the position which appellant occupied in respect to the Columbus to San Antonio line, viz., that it did not have and never had had a land grant in respect thereto."

This contention of defendant company in said suit was
86 adopted and followed by the supreme court of the State of Texas in the following language: "The Buffalo Bayou, Brazos and Colorado Railway Company had by special acts and by the general law of 1854 the right to receive lands for each section of twenty-five miles of railway constructed, but by a special act of February 4, 1854, it was restricted to an extension of its road to Austin and to a line extending thence to a connection with any road running north of Austin to the Pacific ocean. (Spec. Laws 1854, pp. 29, 70.)

The privilege of constructing a railway to San Antonio was conferred by the special act of 1870, which recognized the present corporation as the successor of the Buffalo Bayou, Brazos and Colorado Railway Company and authorized the change of name. At the date of that act the power to grant lands in aid of the construction of railways had been taken from the legislature by the constitution of 1870 and all laws making such grants impliedly repealed except as to existing rights. Const. 1870, art. 10, sec. 6. It follows that until the act of 1876 went into effect the appellant had never had any right to acquire lands from the State by the construction of its line to San Antonio, and consequently there was no right in that respect which but for the proviso in question would have been renewed."

"Does, then, the appellant corporation come within the meaning of the words 'companies who * * * may fail,' as found in the proviso? If the statute is to be construed as speaking from the time it took effect and not from the date of its passage, then the appellant is not included. It had already failed to comply with the law with reference to building to San Antonio when the act went into effect. At the date of the passage of the statute it had not failed. It still had until the adjournment of that session of the legislature to complete its road to the point named in compliance with the laws. We apprehend that no universal rule of construction can be adopted when a statute which makes a distinction between future and past transactions is passed upon one day to take effect upon another, but we think the general rule is that a statute speaks from the time it became a law, and that what has occurred between the date of its passage and the time it took effect is deemed, with respect to the statute, a past transaction. This is an analogy to the rule for the construction of wills. * * * Our conclusions being that
87 the appellant company had never acquired any right to earn lands by the construction of this particular line of road before the passage of the act of August 16, 1876, and having already failed to construct to San Antonio within the time acquired by its contract and the general laws of the State, it follows that the privilege

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conferred by that act was neither a renewal of a lost or forfeited right nor the continuance of one existing when the act took effect. The appellant therefore is not excluded by the letter of the statute from the benefits conferred by it."

And upon this contention of the defendant company, adopted by the supreme court of the State, the judgment in favor of the State rendered in the district court of Val Verde county for — acres of land was reversed, except as to so much of said lands so granted as was based upon certificates issued for sidings to said company to the amount of 87,040 acres; the title to the balance of said — acres of land was quie'ed in defendant company.

Plaintiff says that by reason of the facts set up defendant company is now estopped from setting up that it was, prior to the passage of the act of August 15, 1876, entitled to certificates for land for the construction of that portion of its road from Columbus to the Guadalupe River bridge, and of this it asks the judgment of this court.

C. A. CULBERSON,
*Att'y General, and*
R. L. BATTS,
*Assistant, Att'ys for Plaintiff.*

(Filed this the 13th day of Sept., 1893.
C. E. WAY,
*Clerk District Court, Brewster Co., Texas.*)

*Defendant's First Supplemental Answer.*

Filed Sept. 13, 1893.

In the District Court of Brewster County, Texas.

THE STATE OF TEXAS
*vs.*
G., H. & S. A. R'Y Co. } # 101.

88 And now comes defendant and excepts to that part of plaintiff's supplemental petition filed this day which undertakes to set up by way of estoppel to defendant's right to the land sued for the decision of the Supreme Court in the case of G. H. & S. A. R'y Co. *vs.* State, reported in 81 Tex. Reports:

1st. Because the same is wholly insufficient in law, and of this:

2nd. Because the same does not show that all the matters, claims, etc., of the defendant company for lands under other series and issues and other laws of the State, general and special, were sued for and involved in that suit were pleaded and submitted for decision in that case so as to be binding on the parties at issue and settled the controversy between the parties thereto, so that the same operates as an estoppel.

3rd. Because the said plea shows upon its face that there was nothing more involved in the decision than the argument of counsel and opinion of the court construing the law applicable to the

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facts in that case, which do not appear to be same facts applicable here, and the plea is wholly insufficient to estop defendant in any claim it may have to land by reason of the law in force at the time the certificates were issued and lands patented.

Wherefore, &c., the plea of estoppel shows that it sets up the contention of counsel in another case and opinion of the Supreme Court in the case it was considering, but that does not show that the land certificates were issued at same time, were of the same series, or were in any way *res adjudicata* or binding upon it in this case, and is insufficient in law.

Wherefore the plea shows upon its face that the same were conclusions of law of the pleader and is not such a plea as is known to the law.

Wherefore and for the reasons given, the said plea so being insufficient, defendant prays that the same be stricken out.

T. D. COBBS,
*Att'y for Defendant.*

Should said pleas be overruled, then the defendant denies the same fully and denies that defendant is estopped by the opinion of the court in said case upon the matters and issues presented here and involved in this suit.

And of this, etc.,

T. D. COBBS.

(Filed Sept. 13, 1893.
C. E. WAY, *Clerk.*)

*Final Judgment.*

In the District Court of Brewster County, State of Texas.

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG AND SAN ANTONIO RAILWAY COMPANY.

On the 13th day of September, 1893, came on to be heard the above-stated cause for trial, and the defendant thereupon presented plea, motion, and protest against this court proceeding further with the trial of said cause, alleging that the same had been properly removed to the United States circuit court at El Paso for the western district of Texas; which plea, motion, and protest was by the court overruled, and to which ruling of the court the defendant in open court excepted and tendered its bill of exception No. 1, which was approved by the court.

Then came on to be heard defendant's general demurrers to plaintiff's petition, which was overruled by the court; to which ruling by the court — then and there excepted. Then came on to be heard the defendant's plea that there was a non-joinder of necessary parties, and that George F. Stone was a necessary party to this suit, which plea was overruled by the court; to which ruling of the court

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the defendant then and there excepted. Then came on to be heard the demurrer of defendant to plaintiff's supplemental petition, the decision of the Supreme Court, and the contention of counsel for defendant in said court as an estoppel against defendant's contention here, which demurrer was sustained by the court and the plea stricken out. Whereupon the plaintiff excepted to the ruling of the court.

Whereupon all issues of law upon pleas and demurrers having been submitted to the court and having been ruled upon, except plaintiff's exceptions, the parties thereupon announced ready
90 for trial on the merits, the said plaintiff appearing and being represented by R. L. Batts, assistant attorney general of Texas, and said defendant appearing and being represented by T. D. Cobbs; whereupon trial of the cause upon the law and evidence was begun; and the evidence being submitted and the argument of counsel being heard, and it appearing to the court that the land certificates hereinafter mentioned were, together with other certificates, issued by the commissioner of the general land office of Texas to the defendant company for the construction of those parts of its road hereinafter indicated, and that they were issued without warrant or authority of law, it was the opinion of the court that judgment should be rendered for plaintiff, The State of Texas, and on this the 14th day of September, A. D. 1893, judgment was rendered in behalf of plaintiff for the entire amount of the land herein sued for, and otherwise as prayed for by plaintiff; and it is here now ordered, adjudged, and decreed by the court that plaintiff, The State of Texas, do have and recover of defendant, The Galveston, Harrisburg & San Antonio Railway Company, the following-described thirteen hundred and eighty-three sections, tracts, or parcels of land, containing in the aggregate eight hundred and seventy-nine thousand and seventy-eight and one-twentieth ($879{,}078\frac{1}{20}$) acres of land, situated in the counties of Jeff Davis, Presidio, Brewster, Kimble, San Saba, Val Verde, Crockett, McCulloch, Pecos, Buchel, Reeves, Schleicher, Sutton, and Zavalla, in the State of Texas, and described by the number of certificate, amount in acres, date of issuance of each certificate, county of location, survey number, block number, abstract number, whether or not patented, and when patented, as indicated by the following tables, in which the certificate number of each certificate issued is placed in a column at the head of top of which are the words "No. of certificate;" in which the number of acres or amount in acres is placed in a column at the head of which is the word "acres;" in which the date when each of the several certificates were issued is placed in a column at the top or head of which are the words "when issued;" in which the county in which each of the several tracts were located is placed in a column at the head of which are the words "when located;" in which of the said several surveys are patented the date of the patent is given in a column at the head or top of which are the words "when patented," and if said surveys are not patented, then in the same column is the word "unpat-
91 ented;" in which the survey number of said several surveys is given in a column marked "survey No.;" in which the

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block number is in a column marked "block;" in which the abstract number of the several surveys is placed in a column marked "abstract No.," and in which, when the land is patented, the name or initial of the patentee is given in a column at the head or top of which is the word "patentee:"

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|
| 1/1 | 640 | Jan'y 9, 1874 | Jeff Davis county | " 1 | 1 | 184 |
| 1/2 | " | " | Presidio " | " 3 | 1 | 99 |
| 1/3 | " | " | " " | " 5 | 1 | 100 |
| 1/4 | " | " | " " | " 7 | 1 | 101 |
| 1/5 | " | " | " " | " 9 | 1 | 102 |
| 1/6 | " | " | " " | " 11 | 1 | 103 |
| 1/7 | " | " | " " | " 1 | 2 | 104 |
| 1/8 | " | " | Jeff Davis county | " 3 | " | 185 |
| 1/9 | " | " | " | " 5 | " | 186 |
| 1/10 | " | " | " | " 7 | " | 187 |
| 1/11 | " | " | " | " 9 | " | 188 |
| 1/12 | " | " | " | " 11 | " | 189 |
| 1/13 | " | " | " | " 13 | " | 190 |
| 1/14 | " | " | " | " 15 | " | 191 |
| 1/15 | " | " | " | " 17 | " | 192 |
| 1/16 | " | " | " | " 19 | " | 193 |
| 1/17 | " | " | " | " 21 | " | 194 |
| 1/18 | " | " | " | " 23 | " | 195 |
| 1/19 | " | " | " | " 25 | " | 196 |
| 1/20 | " | " | " | " 27 | " | 197 |
| 1/21 | " | " | " | " 29 | " | 198 |
| 1/22 | " | " | " | " 1 | 3 | 261 |
| 1/23 | " | " | " | " 3 | " | 262 |
| 1/24 | " | " | " | " 5 | " | 263 |
| 1/25 | " | " | " | " 7 | " | 264 |
| 1/26 | " | " | " | " 9 | " | 265 |
| 1/27 | " | " | " | " 11 | " | 266 |
| 1/28 | " | " | " | " 13 | " | 267 |
| 92 | | | | | | |
| 1/29 | " | " | " | " 15 | " | 268 |
| 1/30 | " | " | " | " 17 | " | 269 |
| 1/31 | " | " | " | " 19 | " | 270 |
| 1/32 | " | " | " | " 21 | " | 271 |
| 1/33 | " | " | " | " 23 | " | 272 |
| 1/34 | " | " | " | " 25 | " | 273 |
| 1/35 | " | " | " | " 27 | " | 274 |
| 1/36 | " | " | " | " 29 | " | 275 |
| 1/37 | " | " | " | " 31 | " | 276 |
| 1/38 | " | " | " | " 33 | " | 277 |
| 1/39 | " | " | " | " 35 | " | 278 |
| 1/40 | " | " | " | " 37 | " | 279 |
| 1/41 | " | " | " | " 39 | " | 280 |
| 1/42 | " | " | " | " 41 | " | 281 |
| 1/43 | " | " | " | " 43 | " | 282 |
| 1/44 | " | " | " | " 45 | " | 283 |
| 1/45 | " | " | " | " 47 | " | 284 |
| 1/46 | " | " | " | " 49 | " | 285 |
| 1/47 | " | " | " | " 51 | " | 286 |
| 1/48 | " | " | " | " 53 | " | 287 |



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| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/116 | 640 | Jan'y 9, 1874 | Jeff Davis county.. | June 7, 1876 | 189 | 3 | 390 |
| 1/117 | " | " | " " .. | " | 191 | " | 391 |
| 1/118 | " | " | " " .. | " | 193 | " | 392 |
| 1/119 | " | " | " " .. | " | 195 | " | 393 |
| 1/120 | " | " | " " .. | " | 197 | " | 396 |
| 1/122 | " | " | " " .. | 16, | 201 | " | 396 |
| 1/124 | " | " | " " .. | " | 205 | " | 398 |
| 1/126 | " | " | " " .. | 15, | 209 | " | 400 |
| 1/128 | " | " | " " .. | " | 213 | " | 402 |
| 1/130 | " | " | " " .. | 14, | 217 | " | 404 |
| 1/132 | " | " | " " .. | " | 221 | " | 406 |
| 1/134 | " | " | " " .. | " | 225 | " | 408 |
| 1/140 | " | " | " " .. | " | 237 | " | 414 |
| 1/141 | " | " | " " .. | 20, | 239 | " | 415 |
| 1/142 | " | " | " " .. | " | 241 | " | 416 |
| 1/143 | " | " | " " .. | " | 243 | " | 417 |
| 1/144 | " | " | " " .. | 19, | 245 | " | 418 |
| 93 | | | | | | | |
| 1/145 | " | " | " " .. | " | 247 | " | 419 |
| 1/146 | " | " | " " .. | " | 249 | " | 420 |
| 1/147 | " | " | " " .. | " | 251 | " | 421 |
| 1/148 | " | " | " " .. | " | 253 | " | 422 |
| 1/149 | " | " | " " .. | " | 255 | " | 423 |
| 1/150 | " | " | " " .. | " | 257 | " | 424 |
| 1/151 | " | " | " " .. | 20, | 259 | " | 425 |
| 1/152 | " | " | " " .. | " | 261 | " | 426 |
| 1/153 | " | " | " " .. | " | 263 | " | 427 |
| 1/154 | " | " | 1/10 Jeff Davis " 9/10 El Paso " | " | 265 | " | 428-2648 |
| 1/155 | " | " | Presidio " .. | " | 267 | " | 252 |
| 1/156 | " | " | 1/4 Jeff Davis " 3/4 El Paso " | " | 269 | " | 429-2649 |
| 1/157 | " | " | Jeff Davis " .. | " | 271 | " | 430 |
| 1/158 | " | " | " " .. | " | 273 | " | 431 |
| 1/159 | " | " | " " .. | " | 275 | " | 432 |
| 1/160 | " | " | " " .. | June 20, 1876 | 277 | " | 433 |
| 1/161 | " | " | " " .. | Unpatented.. | 279 | " | 434 |
| 1/162 | " | " | " " .. | " .. | 281 | " | 435 |
| 1/163 | " | " | " " .. | " .. | 283 | " | 436 |
| 1/164 | " | " | " " .. | " .. | 285 | " | 437 |
| 1/165 | " | " | " " .. | " .. | 287 | " | 438 |
| 1/166 | " | " | " " .. | " .. | 289 | " | 439 |
| 1/167 | " | " | " " .. | " .. | 291 | " | 181 |
| 1/168 | " | " | " " .. | " .. | 293 | " | 182 |
| 1/169 | " | " | " " .. | " .. | 295 | " | 183 |
| 1/170 | " | " | " " .. | " .. | 1 | 4 | 297 |
| 1/171 | " | " | " " .. | " .. | 3 | " | 298 |
| 1/172 | " | " | " " .. | " .. | 5 | " | 299 |
| 1/173 | " | " | " " .. | " .. | 7 | " | 300 |
| 1/174 | " | " | " " .. | " .. | 9 | " | 301 |
| 1/175 | " | " | " " .. | " .. | 11 | " | 302 |
| 1/176 | " | " | " " .. | " .. | 13 | " | 303 |
| 1/177 | " | " | " " .. | " .. | 15 | " | 304 |
| 1/178 | " | " | " " .. | " .. | 17 | " | 305 |
| 1/179 | " | " | " " .. | " .. | 19 | " | 306 |
| 1/180 | " | " | " " .. | " .. | 21 | " | 307 |
| 1/181 | " | " | " " .. | " .. | 23 | " | 308 |

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 94 | | | | | | | |
| 1/182 | 640 | Jan'y 9, 1874 | Jeff Davis county.. | Unpatented.. | 25 | 4 | 309 |
| 1/183 | " | " | " .. | " .. | 27 | " | 310 |
| 1/184 | " | " | " .. | " .. | 29 | " | 311 |
| 1/185 | " | " | " .. | " .. | 31 | " | 312 |
| 1/186 | " | " | " .. | " .. | 33 | " | 313 |
| 1/187 | " | " | " .. | " .. | 35 | " | 314 |
| 1/188 | " | " | Presidio county... | " .. | 37 | " | 285 |
| 1/189 | " | " | " ... | " .. | 39 | " | 286 |
| 1/190 | " | " | " ... | " .. | 41 | " | 287 |
| 1/191 | " | " | " .... | " .. | 43 | " | 288 |
| 1/192 | " | " | " .... | " .. | 45 | " | 289 |
| 1/193 | " | " | " .... | " .. | 47 | " | 290 |
| 1/194 | " | " | " .... | " .. | 49 | " | 291 |
| 1/195 | " | " | " .... | " .. | 51 | " | 292 |
| 1/196 | " | " | " .... | " .. | 53 | " | 293 |
| 1/197 | " | " | " .... | " .. | 55 | " | 294 |
| 1/198 | " | " | " .... | " .. | 57 | " | 295 |
| 1/199 | " | " | " .... | " .. | 59 | " | 296 |
| 1/200 | " | " | " .... | " .. | 61 | " | 297 |
| 1/201 | " | " | " .... | " .. | 63 | " | 298 |
| 1/202 | " | " | " .... | " .. | 65 | " | 299 |
| 1/203 | " | " | " .... | " .. | 67 | " | 300 |
| 1/204 | " | " | " .... | " .. | 69 | " | 301 |
| 1/205 | " | " | " .... | " .. | 71 | " | 302 |
| 1/206 | " | " | " .... | " .. | 73 | " | 303 |
| 1/207 | " | " | " .... | " .. | 75 | " | 304 |
| 1/208 | " | " | " .... | " .. | 77 | " | 305 |
| 1/209 | " | " | " .... | " .. | 79 | " | 306 |
| 1/210 | " | " | " .... | " .. | 81 | " | 307 |
| 1/211 | " | " | " .... | " .. | 83 | " | 308 |
| 1/212 | " | " | " .... | " .. | 85 | " | 309 |
| 1/213 | " | " | " .... | " .. | 87 | " | 310 |
| 1/214 | " | " | " .... | " .. | 89 | " | 311 |
| 1/215 | " | " | " .... | " .. | 91 | " | 312 |
| 1/216 | " | " | " .... | " .. | 93 | " | 313 |
| 1/217 | " | " | " .... | " .. | 95 | " | 314 |
| 1/218 | " | " | " .... | " .. | 97 | " | 315 |
| 95 | | | | | | | |
| 1/219 | " | " | " .... | " .. | 99 | " | 316 |
| 1/220 | " | " | " .... | " .. | 101 | " | 317 |
| 1/221 | " | " | " .... | " .. | 103 | " | 318 |
| 1/222 | " | " | " .... | " .. | 105 | " | 319 |
| 1/223 | " | " | " .... | " .. | 107 | " | 320 |
| 1/224 | " | " | " .... | " .. | 109 | " | 321 |
| 1/225 | " | " | " .... | " .. | 111 | " | 322 |
| 1/226 | " | " | " .... | " .. | 113 | " | 323 |
| 1/227 | " | " | " .... | " .. | 115 | " | 324 |
| 1/228 | " | " | " .... | " .. | 117 | " | 325 |
| 1/229 | " | " | " .... | " .. | 119 | " | 326 |
| 1/230 | " | " | " .... | " .. | 121 | " | 327 |
| 1/231 | " | " | " .... | " .. | 123 | " | 328 |
| 1/232 | " | " | " .... | " .. | 125 | " | 329 |
| 1/233 | " | " | " .... | " .. | 127 | " | 330 |
| 1/234 | " | " | " .... | " .. | 129 | " | 331 |
| 1/235 | " | " | " .... | " .. | 131 | " | 332 |
| 1/236 | " | " | " .... | " .. | 133 | " | 333 |
| 1/237 | " | " | " .... | " .. | 135 | " | 334 |
| 1/238 | " | " | " .... | " .. | 137 | " | 335 |
| 1/239 | " | " | " .... | " .. | 139 | " | 336 |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/240 | 640 | Jan'y 9, 1874 | Presidio county ... | Jan'y 10, 1890 | 1 | 5 | 337 |
| 1/241 | " | " | " .... | " | 3 | " | 338 |
| 1/242 | " | " | " .... | " | 5 | " | 339 |
| 1/243 | " | " | " .... | " | 7 | " | 340 |
| 1/244 | " | " | " .... | " | 9 | " | 341 |
| 1/245 | " | " | " .. | " | 11 | " | 342 |
| 1/246 | " | " | " .... | " | 13 | " | 343 |
| 1/247 | " | " | " .. | Unpatented.. | 15 | " | 344 |
| 1/248 | " | " | " ... | " | 17 | " | 345 |
| | | | | Patented. | | | |
| 1/249 | " | " | " .... | Jan. 10, 1890 | 19 | " | 346 |
| 1/250 | " | " | " .... | " | 21 | " | 347 |
| 1/251 | " | " | " .... | " | 23 | " | 348 |
| 1/252 | " | " | " .... | 11, | 25 | " | 349 |
| 1/253 | " | " | " .... | " | 27 | " | 350 |
| 1/254 | " | " | " .... | " | 29 | " | 351 |
| 1/255 | " | " | " .... | " | 31 | " | 352 |
| 1/256 | " | " | " .... | " | 33 | " | 353 |
| 96 | | | | | | | |
| 1/257 | " | " | " .... | " | 35 | " | 354 |
| 1/258 | " | " | " .... | " | 37 | " | 355 |
| 1/259 | " | " | " ... | " | 39 | " | 356 |
| 1/260 | " | " | " .... | " | 41 | " | 357 |
| 1/261 | " | " | " ... | " | 43 | " | 358 |
| 1/262 | " | " | " ... | " | 45 | " | 359 |
| 1/263 | " | " | " .... | " | 47 | " | 360 |
| 1/264 | " | " | " .... | " | 49 | " | 361 |
| 1/265 | " | " | " .... | " | 51 | " | 362 |
| 1/266 | " | " | " ... | " | 53 | " | 363 |
| 1/267 | " | " | " .... | " | 55 | " | 364 |
| 1/268 | " | " | " .... | " | 57 | " | 365 |
| 1/269 | " | " | " .... | 3, | 59 | " | 366 |
| 1/270 | " | " | " .... | " | 61 | " | 367 |
| 1/271 | " | " | " ... | 3, | 63 | " | 368 |
| 1/272 | " | " | " .... | " | 65 | " | 369 |
| 1/273 | " | " | " .... | 4, | 67 | " | 370 |
| 1/274 | " | " | " .... | " | 69 | " | 371 |
| 1/275 | " | " | " .... | " | 71 | " | 372 |
| 1/276 | " | " | " .... | " | 73 | " | 373 |
| 1/277 | " | " | " .... | " | 75 | " | 374 |
| 1/278 | " | " | " ... | " | 77 | " | 375 |
| 1/279 | " | " | " .... | " | 79 | " | 376 |
| 1/280 | " | " | " .... | " | 81 | " | 377 |
| 1/281 | " | " | " .... | " | 83 | " | 378 |
| 1/282 | " | " | " ... | " | 85 | " | 379 |
| 1/283 | " | " | " .... | " | 87 | " | 380 |
| 1/284 | " | " | " .... | 6, | 89 | " | 381 |
| 1/285 | " | " | " ... | " | 91 | " | 382 |
| 1/286 | " | " | " .... | " | 93 | " | 383 |
| 1/287 | " | " | " .... | " | 95 | " | 384 |
| 1/288 | " | " | " ... | " | 97 | " | 385 |
| 1/289 | " | " | " ... | " | 99 | " | 386 |
| 1/290 | " | " | " .... | " | 101 | " | 387 |
| 1/291 | " | " | " .... | " | 103 | " | 388 |
| 1/292 | " | " | " ... | " | 105 | " | 389 |
| 1/293 | " | " | " .... | " | 107 | " | 390 |
| 1/294 | " | " | " .... | " | 109 | " | 391 |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 97 | | | | | | | |
| 1/295 | 640 | Jan'y 9, 1874 | Presidio county.... | Jan. 6, 1890 | 111 | 5 | 392 |
| 1/296 | " | " | " .... | " | 113 | " | 393 |
| 1/297 | " | " | " .... | " | 115 | " | 394 |
| 1/298 | " | " | " .... | 7, | 117 | " | 395 |
| 1/299 | " | " | " .... | " | 119 | " | 396 |
| 1/320 | 250¾ | " | " .... | 14, | 1 | 7 | 417 |
| 1/321 | 638 9/10 | " | " .... | " | 3 | " | 418 |
| 1/322 | 636 | " | " .... | " | 5 | " | 419 |
| 1/323 | 633 6/10 | " | " .... | " | 7 | " | 420 |
| 1/324 | 631 2/10 | " | " .... | " | 9 | " | 421 |
| 1/325 | 628 9/10 | " | " .... | " | 11 | " | 422 |
| 1/326 | 626 6/10 | " | " .... | 16, | 13 | " | 423 |
| 1/327 | 640 | " | " .... | " | 15 | " | 424 |
| 1/328 | " | " | " .... | " | 17 | " | 425 |
| 1/329 | " | " | " .... | " | 19 | " | 426 |
| 1/330 | " | " | " .... | " | 21 | " | 427 |
| 1/331 | " | " | " .... | " | 23 | " | 428 |
| 1/332 | " | " | " .... | " | 25 | " | 429 |
| 1/333 | 250¼ | " | " .... | 14, | 27 | " | 430 |
| 1/334 | 250¾ | " | " .... | " | 29 | " | 431 |
| 1/335 | 640 | " | " .... | " | 31 | " | 432 |
| 1/336 | " | " | " .... | 16, | 33 | " | 433 |
| 1/337 | " | " | " .... | 17, | 35 | " | 434 |
| 1/338 | " | " | " .... | 16, | 37 | " | 435 |
| 1/339 | " | " | " .... | 17, | 39 | " | 436 |
| 1/340 | " | " | " .... | 14, | 41 | " | 437 |
| 1/341 | " | " | " .... | " | 43 | " | 438 |
| 1/342 | " | " | " .... | 15, | 45 | " | 439 |
| 1/343 | " | " | " .... | " | 47 | " | 440 |
| 1/344 | " | " | " .... | " | 49 | " | 44[illegible] |
| 1/345 | " | " | " .... | " | 51 | " | 44[illegible] |
| 1/346 | " | " | " .... | " | 53 | " | 443 |
| 1/347 | 250¾ | " | " .... | " | 55 | " | 444 |
| 1/348 | 250¼ | " | " .... | 16, | 57 | " | 445 |
| 1/349 | 640 | " | " .... | 16, | 59 | " | 446 |
| 1/350 | " | " | " .... | 17, | 61 | " | 447 |
| 1/351 | " | " | " .... | " | 63 | " | 448 |
| 98 | | | | | | | |
| 1/352 | " | " | " .... | 16, | 65 | " | 449 |
| 1/353 | " | " | " .... | " | 67 | " | 450 |
| 1/354 | " | " | " .... | " | 69 | " | 451 |
| 1/355 | " | " | " .... | " | 71 | " | 452 |
| 1/356 | " | " | " .... | " | 73 | " | 453 |
| 1/357 | " | " | " .... | " | 75 | " | 454 |
| 1/358 | " | " | " .... | " | 77 | " | 455 |
| 1/359 | " | " | " .... | " | 79 | " | 456 |
| 1/360 | " | " | " .... | " | 81 | " | 457 |
| 1/361 | 403 | " | " .... | " | 83 | " | 458 |
| 1/362 | 501 | " | " .... | " | 85 | " | 459 |
| 1/363 | 346 | " | " .... | " | 87 | " | 460 |
| 1/364 | 243¾ | " | " .... | 13, | 89 | " | 461 |
| 1/365 | 640 | " | " .... | " | 91 | " | 462 |
| 1/366 | " | " | " .... | " | 93 | " | 463 |
| 1/367 | " | " | " .... | " | 95 | " | 464 |
| 1/368 | " | " | " .... | 14, | 97 | " | 465 |
| 1/369 | " | " | " .... | " | 99 | " | 466 |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/370 | 640 | Jan. 9, 1874 | Presidio county... | Jan. 14, 1890 | 101 | 7 | 467 |
| 1/371 | " | " | " .... | " | 103 | " | 468 |
| 1/372 | " | " | " .... | 7, | 105 | " | 469 |
| 1/373 | " | " | " .... | " | 107 | " | 470 |
| 1/374 | " | " | " .... | " | 109 | " | 471 |
| 1/375 | " | " | " .... | " | 111 | " | 472 |
| 1/376 | " | " | " .... | " | 113 | " | 473 |
| 1/377 | " | " | " .... | " | 115 | " | 474 |
| 1/378 | " | " | " .... | 8, | 117 | " | 475 |
| 1/379 | " | " | " .... | " | 119 | " | 476 |
| 1/380 | " | " | " .... | " | 121 | " | 477 |
| 1/381 | " | " | " .... | 10, | 123 | " | 478 |
| 1/382 | " | " | " .... | " | 125 | " | 479 |
| 1/383 | " | " | " .... | 11, | 127 | " | 480 |
| 1/384 | " | " | " .... | " | 129 | " | 481 |
| 1/385 | 243½ | " | " .... | " | 131 | " | 482 |
| 1/386 | 441 $\frac{6}{10}$ | " | " .... | 10, | 133 | " | 483 |
| 1/387 | 446½ | " | " .... | 17, | 1 | 8 | 484 |
| 99 | | | | | | | |
| 1/388 | 640 | " | " .... | " | 3 | " | 485 |
| 1/389 | " | " | " .... | " | 5 | " | 486 |
| 1/390 | " | " | " .... | " | 7 | " | 487 |
| 1/391 | " | " | " .... | " | 9 | " | 488 |
| 1/392 | " | " | " .... | " | 11 | " | 489 |
| 1/393 | " | " | " .... | " | 13 | " | 490 |
| 1/394 | " | " | " .... | " | 15 | " | 491 |
| 1/395 | " | " | " .... | " | 17 | " | 492 |
| 1/396 | " | " | " .... | " | 19 | " | 493 |
| 1/397 | " | " | " .... | 29, | 21 | " | 494 |
| 1/398 | " | " | " .... | 12, | 23 | " | 495 |
| 1/399 | " | " | " .... | 30, | 25 | " | 496 |
| 1/400 | 448 $\frac{8}{10}$ | " | " .... | 29, | 27 | " | 497 |
| 1/401 | 451 | " | " .... | 31, | 29 | " | 498 |
| 1/402 | 640 | " | " .... | Feb'y 3, 1890 | 31 | " | 499 |
| 1/403 | " | " | " .... | 4, | 33 | " | 500 |
| 1/404 | " | " | " .... | " | 35 | " | 501 |
| 1/405 | " | " | " .... | " | 37 | " | 502 |
| 1/406 | " | " | " .... | " | 39 | " | 503 |
| 1/407 | " | " | " .... | Unpatented.. | 41 | " | 504 |
| 1/408 | " | " | " .... | " .. | 43 | " | 505 |
| 1/409 | " | " | " .... | " .. | 45 | " | 506 |
| 1/410 | " | " | " .... | " .. | 47 | " | 507 |
| 1/411 | " | " | " .... | " .. | 49 | " | 508 |
| 1/412 | " | " | " .... | " .. | 51 | " | 509 |
| 1/413 | " | " | " .... | " .. | 53 | " | 510 |
| 1/414 | " | " | " .... | " .. | 55 | " | 511 |
| 1/415 | " | " | " .... | " .. | 57 | " | 512 |
| | | | | Patented. | | | |
| 1/416 | 640 | July 17, 1874 | " ... | Jan. 16, 1890 | 59 | 8 | 513 |
| 1/417 | 453 $\frac{4}{10}$ | " | " .... | " | 61 | " | 514 |
| 1/418 | 274 $\frac{1}{10}$ | " | " .... | " | 63 | " | 515 |
| 1/419 | 640 | " | " .... | " | 65 | " | 516 |
| 1/420 | " | " | " .... | " | 67 | " | 517 |
| 1/421 | " | " | " .... | " | 69 | " | 518 |
| 1/422 | " | " | " .... | " | 71 | " | 519 |
| 1/423 | " | " | " .... | " | 73 | " | 520 |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 100 | | | | | | | |
| 1/424 | 640 | July 17, 1874 | Presidio county ... | Jan. 17, 1890 | 75 | 8 | 521 |
| 1/425 | " | " | " ... | " | 77 | " | 522 |
| 1/426 | " | " | " ... | " | 79 | " | 523 |
| 1/427 | " | " | " ... | " | 81 | " | 524 |
| 1/428 | " | " | " ... | 16, | 83 | " | 525 |
| 1/429 | " | " | " ... | " | 85 | " | 526 |
| 1/430 | " | " | " ... | " | 87 | " | 527 |
| 1/431 | " | " | " ... | " | 89 | " | 528 |
| 1/432 | " | " | " ... | 17, | 91 | " | 529 |
| 1/433 | " | " | " ... | " | 93 | " | 530 |
| 1/434 | " | " | " ... | " | 95 | " | 531 |
| 1/435 | " | " | " ... | " | 97 | " | 532 |
| 1/436 | " | " | " ... | " | 99 | " | 533 |
| 1/437 | " | " | " ... | " | 101 | " | 534 |
| 1/438 | " | " | " ... | " | 103 | " | 535 |
| 1/439 | " | " | " ... | " | 105 | " | 536 |
| 1/440 | " | " | " ... | " | 107 | " | 537 |
| 1/441 | " | " | " ... | 18, | 109 | " | 538 |
| 1/442 | " | " | " ... | " | 111 | " | 539 |
| 1/443 | " | " | " ... | " | 113 | " | 540 |
| 1/444 | " | " | " ... | " | 115 | " | 541 |
| 1/445 | " | " | " ... | " | 117 | " | 542 |
| 1/446 | " | " | " ... | " | 119 | " | 543 |
| 1/447 | " | " | " ... | " | 121 | " | 544 |
| 1/448 | " | " | " ... | " | 123 | " | 545 |
| 1/449 | " | " | " ... | " | 125 | " | 546 |
| 1/450 | " | " | " ... | " | 127 | " | 547 |
| 1/451 | 504 | " | " ... | " | 129 | " | 548 |
| 1/452 | 640 | " | " ... | " | 131 | " | 549 |
| 1/453 | " | " | " ... | " | 133 | " | 550 |
| 1/454 | " | " | " ... | " | 135 | " | 551 |
| 1/455 | " | " | " ... | " | 137 | " | 552 |
| 1/456 | " | " | " ... | 20, | 139 | " | 553 |
| 1/457 | " | " | " ... | " | 141 | " | 554 |
| 1/458 | 280 3/10 | " | " ... | " | 143 | " | 555 |
| 1/459 | 447 2/10 | " | " ... | " | 145 | " | 556 |
| 1/460 | 640 | " | " ... | " | 147 | " | 557 |
| 101 | | | | | | | |
| 1/461 | " | " | " ... | " | 149 | " | 558 |
| 1/462 | " | " | " ... | 28, | 151 | " | 559 |
| 1/463 | " | " | " ... | " | 153 | " | 560 |
| 1/464 | " | " | " ... | " | 155 | " | 561 |
| 1/465 | " | " | " ... | " | 157 | " | 562 |
| 1/466 | " | " | " ... | " | 159 | " | 563 |
| 1/467 | " | " | " ... | " | 161 | " | 564 |
| 1/468 | " | " | " ... | " | 163 | " | 565 |
| 1/469 | " | " | " ... | " | 165 | " | 566 |
| 1/470 | " | " | " ... | " | 167 | " | 567 |
| 1/471 | " | " | " ... | " | 169 | " | 568 |
| 1/472 | " | " | " ... | " | 171 | " | 569 |
| 1/473 | " | " | " ... | " | 173 | " | 570 |
| 1/474 | " | " | " ... | " | 175 | " | 571 |
| 1/475 | " | " | " ... | " | 177 | " | 572 |
| 1/476 | " | " | " ... | " | 179 | " | 573 |
| 1/477 | " | " | " ... | " | 181 | " | 574 |
| 1/478 | " | " | " ... | " | 183 | " | 575 |
| 1/479 | " | " | " ... | " | 185 | " | 576 |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/480 | 640 | July 17, 1874 | Presidio county .... | Jan. 28, 1890 | 187 | 8 | 577 |
| 1/481 | " | " | " ... | " | 189 | " | 578 |
| 1/482 | " | " | " .... | " | 191 | " | 579 |
| 1/483 | " | " | " .. | " | 193 | " | 580 |
| 1/484 | " | " | " .... | " | 195 | " | 581 |
| 1/485 | " | " | " .... | " | 197 | " | 582 |
| 1/486 | " | " | " .... | " | 199 | " | 583 |
| 1/487 | " | " | " ... | " | 201 | " | 584 |
| 1/488 | " | " | " .... | " | 203 | " | 585 |
| 1/489 | " | " | " .... | " | 205 | " | 586 |
| 1/490 | " | " | " .... | " | 207 | " | 587 |
| 1/491 | " | " | " .... | " | 209 | " | 588 |
| 1/492 | " | " | " .... | " | 211 | " | 589 |
| 1/493 | " | " | " .... | " | 213 | " | 590 |
| 1/494 | " | " | " .... | " | 215 | " | 591 |
| 1/495 | " | " | " .... | " | 217 | " | 592 |
| 1/496 | " | " | " .... | " | 219 | " | 593 |
| 102 | | | | | | | |
| 1/497 | " | " | " .... | " | 221 | " | 594 |
| 1/498 | " | " | " .... | " | 223 | " | 595 |
| 1/499 | " | " | " .... | " | 225 | " | 596 |
| 1/500 | " | " | " .... | " | 227 | " | 597 |
| 1/501 | " | " | " .... | " | 229 | " | 598 |
| 1/502 | " | " | " .... | " | 231 | " | 599 |
| 1/503 | " | " | " .... | " | 233 | " | 600 |
| 1/504 | " | " | " .... | " | 235 | " | 601 |
| 1/505 | " | " | " .... | " | 237 | " | 602 |
| 1/506 | " | " | " .... | " | 239 | " | 603 |
| 1/507 | " | " | " .... | " | 241 | " | 604 |
| 1/508 | " | " | " .... | " | 243 | " | 605 |
| 1/509 | " | " | " .... | " | 245 | " | 606 |
| 1/510 | " | " | " ... | " | 247 | " | 607 |
| 1/511 | " | " | " ... | " | 249 | " | 608 |
| 1/512 | " | " | " .... | " | 251 | " | 609 |
| 1/513 | " | " | " .... | " | 253 | " | 610 |
| 1/514 | " | " | " .... | " | 255 | " | 611 |
| 1/515 | " | " | " .... | " | 257 | " | 612 |
| 1/516 | " | " | " .... | " | 259 | " | 613 |
| 1/517 | " | " | " .... | " | 261 | " | 614 |
| 1/518 | " | " | " .... | " | 263 | " | 615 |
| 1/519 | " | " | " .... | " | 265 | " | 616 |
| 1/520 | " | " | " .... | " | 267 | " | 617 |
| 1/521 | " | " | " .... | " | 269 | " | 618 |
| 1/522 | " | " | " .... | " | 271 | " | 619 |
| 1/523 | " | " | " .... | " | 273 | " | 620 |
| 1/524 | " | " | " .... | " | 275 | " | 621 |
| 1/525 | " | " | " .... | " | 277 | " | 622 |
| 1/526 | " | " | " .... | " | 279 | " | 623 |
| 1/527 | " | " | " .... | " | 281 | " | 624 |
| 1/528 | " | " | " .... | " | 283 | " | 625 |
| 1/529 | " | " | " .... | " | 285 | " | 626 |
| 1/530 | " | " | " .. | " | 287 | " | 627 |
| 1/531 | " | " | " .... | " | 289 | " | 628 |
| 1/532 | " | " | " .... | " | 291 | " | 629 |
| 103 | | | | | | | |
| 1/533 | " | " | " .... | " | 293 | " | 630 |
| 1/534 | " | " | " .... | " | 295 | " | 631 |

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| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/535 | 640 | July 17, 1874 | Presidio county.... | Jan. 28, 1890 | 297 | 8 | 632 |
| 1/536 | " | " | " .. | " | 299 | " | 633 |
| 1/537 | " | " | " .... | " | 301 | " | 634 |
| 1/538 | " | " | " .. . | " | 303 | " | 635 |
| 1/539 | " | " | " ... | " | 305 | " | 636 |
| 1/540 | " | " | " .... | " | 307 | " | 637 |
| 1/541 | " | " | " .... | " | 309 | " | 638 |
| 1/542 | " | " | " .... | " | 311 | " | 639 |
| 1/543 | " | " | " .... | " | 313 | " | 640 |
| 1/544 | " | " | " .... | " | 315 | " | 641 |
| 1/545 | " | " | " .... | " | 317 | " | 642 |
| 1/546 | " | " | " .... | " | 319 | " | 643 |
| 1/547 | " | " | " .... | " | 321 | " | 644 |
| 1/548 | " | " | " .... | " | 323 | " | 645 |
| 1/549 | " | " | " ... | " | 325 | " | 646 |
| 1/550 | " | " | " .... | " | 327 | " | 647 |
| 1/551 | " | " | " .... | " | 329 | " | 648 |
| 1/552 | " | " | " .... | " | 331 | " | 649 |
| 1/553 | " | " | " . . | " | 333 | " | 650 |
| 1/554 | " | " | " .... | " | 335 | " | 651 |
| 1/555 | " | " | " .... | " | 337 | " | 652 |
| 1/556 | " | " | " .... | " | 339 | " | 653 |
| 1/557 | " | " | " .... | " | 341 | " | 654 |
| 1/558 | " | " | " .... | " | 343 | " | 655 |
| 1/559 | " | " | " .... | " | 345 | " | 656 |
| 1/560 | " | " | " .. . | " | 347 | " | 657 |
| 1/561 | " | " | " . .. | " | 349 | " | 658 |
| 1/562 | " | " | " .... | " | 351 | " | 659 |
| 1/563 | " | " | " .... | " | 353 | " | 660 |
| 1/564 | " | " | " .... | " | 355 | " | 661 |
| 1/565 | " | " | " .... | " | 357 | " | 662 |
| 1/566 | " | " | " .... | " | 359 | " | 663 |
| 1/567 | " | " | " .. | " | 361 | " | 664 |
| 1/568 | " | " | " ... | " | 363 | " | 665 |
| 1/569 | " | " | " .... | " | 365 | " | 666 |
| 104 | | | | | | | |
| 1/570 | " | " | " .... | " | 367 | " | 667 |
| 1/571 | " | " | " .... | " | 369 | " | 668 |
| 1/572 | " | " | " ... | " | 371 | " | 669 |
| 1/573 | " | " | " .... | " | 373 | " | 670 |
| 1/574 | " | " | " ... | " | 375 | " | 671 |
| 1/575 | " | " | " .... | " | 377 | " | 672 |
| 1/576 | " | " | " .... | " | 379 | " | 673 |
| 1/577 | " | " | " ... | " | 381 | " | 674 |
| 1/578 | " | " | " .... | " | 383 | " | 675 |
| 1/579 | " | " | " .... | " | 385 | " | 676 |
| 1/580 | " | " | " .... | " | 387 | " | 677 |
| 1/581 | " | " | " .... | " | 389 | " | 678 |
| 1/582 | " | " | " .... | " | 391 | " | 679 |
| 1/583 | " | " | " .... | " | 393 | " | 680 |
| 1/584 | " | " | " .... | " | 395 | " | 681 |
| 1/585 | " | " | " .... | " | 397 | " | 682 |
| 1/586 | " | " | " .... | " | 399 | " | 683 |
| 1/587 | " | " | " .... | " | 401 | " | 684 |
| 1/588 | " | " | " .... | " | 403 | " | 685 |
| 1/589 | " | " | " .... | " | 405 | " | 686 |
| 1/590 | " | " | " .... | " | 407 | " | 687 |
| 1/591 | " | " | " .... | " | 409 | " | 688 |



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| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/592 | 640 | July 17, 1874 | Presidio county .... | Jan. 28, 1890 | 411 | 8 | 689 |
| 1/593 | " | " | " .... | " | 413 | " | 690 |
| 1/594 | " | " | " .... | " | 415 | " | 691 |
| 1/595 | " | " | " .... | " | 417 | " | 692 |
| 1/596 | " | " | " .... | " | 419 | " | 693 |
| 1/597 | " | " | " .... | " | 421 | " | 694 |
| 1/598 | " | " | " .... | " | 423 | " | 695 |
| 1/599 | " | " | " .... | " | 425 | " | 696 |
| 1/600 | " | " | " .... | " | 427 | " | 697 |
| 1/601 | " | " | " .... | " | 429 | " | 698 |
| 1/602 | " | " | " .... | " | 431 | " | 699 |
| 1/603 | " | " | " .... | " | 433 | " | 700 |
| 1/604 | " | " | " .... | " | 435 | " | 701 |
| 1/605 | " | " | " .... | " | 437 | " | 702 |
| 1/606 | " | " | " .... | " | 439 | " | 703 |
| 1/607 | " | " | " .... | " | 441 | " | 704 |
| 1/608 | " | " | " .... | " | 443 | " | 705 |
| 105 | | | | | | | |
| 1/609 | " | " | " .... | " | 445 | " | 706 |
| 1/610 | " | " | " .... | " | 447 | " | 707 |
| 1/611 | " | " | " .... | " | 449 | " | 708 |
| 1/612 | " | " | " .... | " | 451 | " | 709 |
| 1/613 | " | " | " .... | " | 453 | " | 710 |
| 1/614 | " | " | " .... | " | 455 | " | 711 |
| 1/615 | " | " | " .... | " | 457 | " | 712 |
| 1/616 | " | " | " .... | " | 459 | " | 713 |
| 1/617 | " | " | " .... | " | 461 | " | 714 |
| 1/618 | " | " | " .... | " | 463 | " | 715 |
| 1/619 | " | " | " .... | " | 465 | " | 716 |
| 1/620 | " | " | " .... | " | 467 | " | 717 |
| 1/621 | " | " | " .... | " | 469 | " | 718 |
| 1/622 | " | " | " .... | " | 471 | " | 719 |
| 1/623 | " | " | " .... | " | 473 | " | 720 |
| 1/624 | " | " | " .... | " | 475 | " | 721 |
| 1/625 | " | " | " .... | " | 477 | " | 722 |
| 1/626 | " | " | " .... | " | 479 | " | 723 |
| 1/627 | " | " | " .... | " | 481 | " | 724 |
| 1/628 | " | " | " .... | " | 483 | " | 725 |
| 1/629 | " | " | " .... | " | 485 | " | 726 |
| 1/630 | " | " | " .... | " | 487 | " | 727 |
| 1/631 | " | " | " .... | " | 489 | " | 728 |
| 1/632 | " | " | " .... | " | 491 | " | 729 |
| 1/633 | " | " | " .... | " | 493 | " | 730 |
| 1/634 | " | " | " .... | " | 495 | " | 731 |
| 1/635 | " | " | " .... | " | 497 | " | 732 |
| 1/636 | " | " | " .... | " | 499 | " | 733 |
| 1/637 | " | " | " .... | " | 501 | " | 734 |
| 1/638 | " | " | " .... | " | 503 | " | 735 |
| 1/639 | " | " | " .... | " | 505 | " | 736 |
| 1/640 | " | " | " .... | " | 507 | " | 737 |
| 1/641 | " | " | " .... | " | 509 | " | 738 |
| 1/642 | " | " | " .... | " | 511 | " | 739 |
| 1/643 | " | " | " .... | " | 513 | " | 740 |
| 1/644 | " | " | " .... | " | 515 | " | 741 |
| 1/645 | " | " | " .... | " | 517 | " | 742 |
| 106 | | | | | | | |
| 1/646 | " | " | " .... | " | 519 | " | 743 |
| 1/647 | " | " | " .... | " | 521 | " | 744 |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
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| 1/648 | 640 | July 17, 1874 | Presidio county | Jan. 28, 1890 | 523 | 8 | 745 |
| 1/649 | " | " | " " | " | 525 | " | 746 |
| 1/650 | " | " | " " | " | 527 | " | 747 |
| 1/651 | " | " | " " | " | 529 | " | 748 |
| 1/652 | " | " | Brewster " | " | 531 | " | 490 |
| 1/653 | " | " | " " | " | 533 | " | 491 |
| 1/654 | " | " | " " | " | 535 | " | 492 |
| 1/655 | " | " | " " | " | 537 | " | 493 |
| 1/656 | " | " | " " | " | 539 | " | 494 |
| 1/657 | " | " | " " | " | 541 | " | 495 |
| 1/658 | " | " | " " | " | 543 | " | 496 |
| 1/659 | " | " | " " | " | 545 | " | 497 |
| 1/660 | " | " | " " | " | 547 | " | 498 |
| 1/661 | " | " | " " | " | 549 | " | 499 |
| 1/662 | " | " | " " | " | 551 | " | 500 |
| 1/663 | " | " | " " | " | 553 | " | 501 |
| 1/664 | " | " | " " | " | 555 | " | 502 |
| 1/665 | " | " | " " | " | 557 | " | 503 |
| 1/666 | " | " | " " | " | 559 | " | 504 |
| 1/667 | " | " | " " | " | 561 | " | 505 |
| 1/668 | " | " | " " | " | 563 | " | 506 |
| 1/669 | " | " | " " | " | 565 | " | 507 |
| 1/670 | " | " | " " | " | 567 | " | 508 |
| 1/671 | " | " | " " | " | 569 | " | 509 |
| 1/672 | " | " | " " | " | 571 | " | 510 |
| 1/673 | " | " | " " | " | 573 | " | 511 |
| 1/674 | " | " | " " | " | 575 | " | 512 |
| 1/675 | " | " | " " | " | 577 | " | 513 |
| 1/676 | " | " | " " | " | 579 | " | 514 |
| 1/677 | " | " | " " | " | 581 | " | 515 |
| 1/678 | " | " | " " | " | 583 | " | 516 |
| 1/679 | " | " | " " | " | 585 | " | 517 |
| 1/680 | " | " | " " | " | 587 | " | 518 |
| 1/681 | " | " | " " | " | 589 | " | 519 |
| 1/682 | " | " | " " | " | 591 | " | 520 |
| 107 | | | | | | | |
| 1/683 | " | " | " " | " | 593 | " | 521 |
| 1/684 | " | " | " " | " | 595 | " | 522 |
| 1/685 | " | " | " " | " | 597 | " | 523 |
| 1/686 | " | " | " " | " | 599 | " | 524 |
| 1/687 | " | " | " " | " | 601 | " | 525 |
| 1/688 | " | " | " " | " | 603 | " | 526 |
| 1/689 | " | " | " " | " | 1 | 9 | 352 |
| 1/690 | " | " | " " | " | 3 | " | 353 |
| 1/691 | " | " | " " | " | 5 | " | 354 |
| 1/692 | " | " | ½ Jeff Davis " ½ Brewster " | " | 7 | " | 355 |
| 1/693 | " | " | Jeff Davis " | " | 9 | " | 200 |
| 1/694 | " | " | " " | " | 11 | " | 201 |
| 1/695 | " | " | " " | " | 13 | " | 202 |
| 1/696 | " | " | " " | " | 15 | " | 203 |
| 1/697 | " | " | " " | " | 17 | " | 204 |
| 1/698 | " | " | Brewster " | " | 19 | " | 356 |
| 1/699 | " | " | " " | " | 21 | " | 357 |
| 1/700 | " | " | " " | " | 23 | " | 358 |
| 1/701 | " | " | " " | " | 25 | " | 359 |
| 1/702 | " | " | " " | " | 27 | " | 360 |
| 1/703 | " | " | " " | " | 29 | " | 361 |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/704 | 640 | July 17, 1874 | Brewster county.... | Jan. 28, 1890 | 31 | 9 | 362 |
| 1/705 | " | " | " " .... | " | 33 | " | 363 |
| 1/706 | " | " | " " .... | " | 35 | " | 364 |
| 1/707 | " | " | " " .... | " | 37 | " | 365 |
| 1/708 | " | " | " " .... | " | 39 | " | 366 |
| 1/709 | " | " | " " .... | " | 41 | " | 367 |
| 1/710 | " | " | " " .... | " | 43 | " | 368 |
| 1/711 | " | " | " " .... | " | 45 | " | 369 |
| 1/712 | " | " | " " .... | " | 47 | " | 370 |
| 1/713 | " | " | " " .... | " | 49 | " | 371 |
| 1/714 | " | " | " " .... | " | 51 | " | 372 |
| 1/715 | " | " | " " .... | " | 53 | " | 373 |
| 1/716 | " | " | " " .... | " | 55 | " | 374 |
| 1/717 | " | " | " " .... | " | 57 | " | 375 |
| 1/718 | " | " | ½ Brewster " .. / ½ Jeff Davis " .. | " | 59 | " | 376 |
| 1/719 | " | " | Jeff Davis " .. | " | 61 | " | 206 |
| 108 | | | | | | | |
| 1/720 | " | " | " " .... | " | 62 | " | 207 |
| 1/721 | " | " | " " .... | " | 65 | " | 208 |
| 1/722 | " | " | " " .... | " | 67 | " | 209 |
| 1/723 | " | " | " " .... | " | 69 | " | 210 |
| 1/724 | " | " | " " .... | " | 71 | " | 211 |
| 1/725 | " | " | " " .... | " | 73 | " | 212 |
| 1/726 | " | " | " " .... | " | 75 | " | 213 |
| 1/727 | " | " | " " .... | " | 77 | " | 214 |
| 1/728 | " | " | " " .... | " | 79 | " | 215 |
| 1/729 | " | " | " " .... | " | 81 | " | 216 |
| 1/730 | " | " | " " .. / ½ Brewster " .. | " | 83 | " | 145-377 |
| 1/731 | " | " | Brewster ⅛ " .. / Jeff Davis Co.... | " | 85 | " | 578-146 |
| 1/732 | " | " | Brewster county.... | " | 87 | " | 379 |
| 1/733 | " | " | " " .... | " | 89 | " | 380 |
| 1/734 | " | " | " " .... | " | 91 | " | 381 |
| 1/735 | " | " | " " .... | " | 93 | " | 382 |
| 1/736 | " | " | " " .... | " | 95 | " | 383 |
| 1/737 | " | " | " " .... | " | 97 | " | 384 |
| 1/738 | " | " | " " .... | " | 99 | " | 385 |
| 1/739 | " | " | " " .... | " | 101 | " | 386 |
| 1/740 | " | " | " " .... | " | 103 | " | 387 |
| 1/741 | " | " | " " .... | " | 105 | " | 388 |
| 1/742 | " | " | " " .... | " | 107 | " | 389 |
| 1/743 | " | " | " " .... | " | 109 | " | 390 |
| 1/744 | " | " | " " .... | " | 111 | " | 391 |
| 1/745 | " | " | " " .... | " | 113 | " | 392 |
| 1/746 | " | " | " " .... | " | 115 | " | 393 |
| 1/747 | " | " | " " .... | " | 117 | " | 394 |
| 1/748 | " | " | " " .... | " | 119 | " | 395 |
| 1/749 | " | " | " " .... | " | 121 | " | 396 |
| 1/750 | " | " | " " .... | " | 123 | " | 397 |
| 1/751 | " | " | " " .... | " | 125 | " | 398 |
| 1/752 | " | " | " " .... | " | 127 | " | 399 |
| 1/753 | " | " | " " .... | " | 129 | " | 400 |
| 1/754 | " | " | " " .... | " | 131 | " | 401 |
| 1/755 | " | " | Brewster ½ " .. / Jeff Davis Co.... | " | 133 | " | 402-147 |
| 1/756 | " | " | Jeff Davis " .... | " | 135 | " | 148 |

BLEED THROU

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 109 | | | | | | | |
| 1/757 | 640 | July 17, 1874 | Jeff Davis county.... | Jan. 28, 1890 | 137 | 9 | 149 |
| 1/758 | " | " | " " .... | " | 139 | " | 150 |
| 1/759 | " | " | " " .... | " | 141 | " | 151 |
| 1/760 | " | " | " " .... | " | 143 | " | 152 |
| 1/761 | " | " | " " .... | " | 145 | " | 153 |
| 1/762 | " | " | " " .... | " | 147 | " | 154 |
| 1/763 | " | " | " " .... | " | 149 | " | 155 |
| 1/764 | " | " | Brewster " .... | " | 151 | " | 403 |
| 1/765 | " | " | " " .... | " | 153 | " | 404 |
| 1/766 | " | " | " " .... | " | 155 | " | 405 |
| 1/767 | " | " | " " .... | " | 157 | " | 406 |
| 1/768 | " | " | " " .... | " | 159 | " | 407 |
| 1/769 | " | " | " " .... | " | 161 | " | 408 |
| 1/770 | " | " | " " .... | " | 163 | " | 409 |
| 1/771 | " | " | " " .... | " | 165 | " | 410 |
| 1/772 | " | " | " " .... | " | 167 | " | 411 |
| 1/773 | " | " | " " .... | " | 169 | " | 412 |
| 1/774 | " | " | " " .... | " | 171 | " | 413 |
| 1/775 | " | " | " " .... | " | 173 | " | 414 |
| 1/776 | " | " | " " .... | " | 175 | " | 415 |
| 1/777 | " | " | " " .... | " | 177 | " | 416 |
| 1/778 | " | " | " " .... | " | 179 | " | 417 |
| 1/779 | " | " | " " .... | " | 181 | " | 418 |
| 1/780 | " | " | " " .... | " | 183 | " | 419 |
| 1/781 | " | " | " " .... | " | 185 | " | 420 |
| 1/782 | " | " | " " .... | " | 187 | " | 421 |
| 1/783 | " | " | " " .... | " | 189 | " | 422 |
| 1/784 | " | " | " " .... | " | 191 | " | 423 |
| 1/785 | " | " | " " .... | " | 193 | " | 424 |
| 1/786 | " | " | " " .... | " | 195 | " | 425 |
| 1/787 | " | " | " " .... | " | 197 | " | 426 |
| 1/788 | " | " | " " .... | " | 199 | " | 427 |
| 1/789 | " | " | " " .... | " | 201 | " | 428 |
| 1/790 | " | " | " " .... | " | 203 | " | 429 |
| 1/791 | " | " | " " .... | " | 205 | " | 430 |
| 1/792 | " | " | " " .... | " | 207 | " | 431 |
| 1/793 | " | " | " " .... | " | 209 | " | 432 |
| 1/794 | " | " | " " .... | " | 211 | " | 433 |
| 110 | | | | | | | |
| 1/795 | " | " | Jeff Davis .. / Brewster " .. | " | 213 | " | 434-156 |
| 1/796 | " | " | Jeff Davis " .... | " | 215 | " | 157 |
| 1/797 | " | " | " " .... | " | 217 | " | 158 |
| 1/798 | " | " | " " .... | " | 219 | " | 159 |
| 1/799 | " | " | " " .... | " | 221 | " | 160 |
| 1/800 | " | " | " " .... | " | 223 | " | 161 |
| 1/801 | " | " | Brewster " .... | " | 1 | 10 | 276 |
| 1/802 | " | " | " " .... | " | 3 | " | 277 |
| 1/803 | " | " | " " .... | " | 5 | " | 278 |
| 1/804 | " | " | " " .... | " | 7 | " | 279 |
| 1/805 | " | " | " " .... | " | 9 | " | 280 |
| 1/806 | " | " | " " .... | " | 11 | " | 281 |
| 1/807 | " | " | " " .... | " | 13 | " | 282 |
| 1/808 | " | " | " " .... | " | 15 | " | 283 |
| 1/809 | " | " | " " .... | " | 17 | " | 284 |
| 1/810 | " | " | " " .... | " | 19 | " | 285 |

POOR COPY

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 1/811 | 640 | July 17, 1874 | Brewster county .... | Jan. 28, 1890 | 21 | 10 | 286 |
| 1/812 | " | " | " " .... | " | 23 | " | 287 |
| 1/813 | " | " | Kimble " .... | Sep. 9, 1876 | 1 | E | 206 |
| 1/820 | " | " | San Saba " .... | " | 1 | .... | 500 |
| 1/831 | " | " | Val Verde " .... | Unpatented.. | 15 | A2 | 882 |
| 1/835 | " | " | Crockett " .... | " .. | 49 | " | 1806 |
| 1/840 | " | " | " " ... | " .. | 51 | " | 1807 |
| 1/843 | " | " | " " .... | " .. | 53 | " | 1808 |
| 1/846 | " | " | " " .... | " .. | 55 | " | 1809 |
| 1/851 | " | " | McCulloch " .... | " .. | 47 | .... | 426 |
| 1/855 | " | " | Kimble " ... | Jan'y 13, 1877 | 15 | G | 214 |
| 1/858 | " | " | Pecos " ... | Unpatented.. | 1 | A2 | 1944 |
| 859 | 640 | May 17, 1875 | Brewster " ... | " .. | 25 | 10 | 288 |
| 860 | " | " | " " .... | " .. | 27 | " | 289 |
| 861 | " | " | " " .... | " .. | 29 | " | 290 |
| 862 | " | " | " " ... | " .. | 31 | " | 291 |
| 863 | " | " | 1/2 Brewster " .. / 1/2 Jeff Davis Co... | " .. | 33 | " | 292-162 |
| 864 | " | " | " " .... | " .. | 35 | " | 163 |
| 865 | " | " | " " .... | " .. | 37 | " | 164 |
| 866 | " | " | " " .... | " .. | 39 | " | 165 |
| 111 | | | | | | | |
| 867 | " | " | " " ... | " .. | 41 | " | 166 |
| 868 | " | " | " " .... | " .. | 43 | " | 167 |
| 869 | " | " | 1/10 Jeff Davis " .. / 1/10 Pecos " .. | " .. | 45 | " | 168-4681 |
| 870 | " | " | Jeff Davis " .... | " .. | 47 | " | 169 |
| 871 | " | " | " " .... | " .. | 49 | " | 170 |
| 872 | " | " | " " .... | " .. | 51 | " | 171 |
| 873 | " | " | " " .... | " .. | 53 | " | 172 |
| 874 | " | " | 1/8 Brewster " .. / 7/8 Jeff Davis " .. | " .. | 55 | " | 173-293 |
| 875 | " | " | Brewster " .... | " .. | 57 | " | 294 |
| 876 | " | " | " " .... | " .. | 59 | " | 295 |
| 877 | " | " | " " .... | " .. | 61 | " | 296 |
| 878 | " | " | " " ... | " .. | 63 | " | 297 |
| 879 | " | " | " " ... | " .. | 65 | " | 298 |
| 880 | " | " | " " .... | " .. | 67 | " | 299 |
| 881 | " | " | " " .... | " .. | 69 | " | 300 |
| 882 | " | " | " " ... | " .. | 71 | " | 301 |
| 883 | " | " | " " .... | " .. | 73 | " | 302 |
| 884 | " | " | " " .... | " .. | 75 | " | 303 |
| 885 | " | " | " " .... | " .. | 77 | " | 304 |
| 886 | " | " | " " .... | " .. | 79 | " | 305 |
| 887 | " | " | " " .... | " .. | 81 | " | 306 |
| 888 | " | " | " " .... | " .. | 83 | " | 307 |
| 889 | " | " | " " .... | " .. | 85 | " | 308 |
| 890 | " | " | " " .... | " .. | 87 | " | 309 |
| 891 | " | " | " " .... | " .. | 89 | " | 310 |
| 892 | " | " | " " .... | " .. | 91 | " | 311 |
| 893 | " | " | " " .... | " .. | 93 | " | 312 |
| 894 | " | " | " " .... | " .. | 95 | " | 313 |
| 895 | " | " | " " .... | " .. | 97 | " | 314 |
| 896 | " | " | " " .... | " .. | 99 | " | 315 |
| 897 | " | " | " " .... | " .. | 101 | " | 316 |
| 898 | " | " | " " .... | " .. | 103 | " | 317 |
| 899 | " | " | " " .... | " .. | 105 | " | 318 |
| 900 | " | " | " " .... | " .. | 107 | " | 319 |
| 901 | " | " | " " .... | " .. | 109 | " | 320 |
| 902 | " | " | " " .... | " .. | 111 | " | 321 |

BLEED THROUGH

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 112 | | | | | | | |
| 903 | 640 | May 17, 1875 | Brewster county .... | Unpatented.. | 113 | 10 | 322 |
| 904 | " | " | " " .... | " .. | 115 | " | 323 |
| 905 | " | " | ½ Brewster " .. } ½ Jeff Davis " .. } | " .. | 117 | " | 324–174 |
| 906 | " | " | ⅗ Brewster " .. } ⅖ Jeff Davis " .. } | " .. | 119 | " | 325–175 |
| 907 | " | " | ½ Pecos " .. } ½ Jeff Davis " .. } | " .. | 121 | " | 176–4682 |
| 908 | " | " | Pecos " .... | " .. | 123 | " | 4420 |
| 909 | " | " | " " .... | " .. | 125 | " | 4421 |
| 910 | " | " | " " .... | " .. | 127 | " | 4422 |
| 911 | " | " | " " .... | " .. | 129 | " | 4423 |
| 912 | " | " | " " .... | " .. | 131 | " | 4424 |
| 913 | " | " | ½ Brewster " .. } ½ Pecos " .. } | " .. | 133 | " | 326–4679 |
| 914 | " | " | ⅔ Brewster " .. } ⅓ Pecos " .. } | " .. | 135 | " | 327–4680 |
| 915 | " | " | Brewster " .... | " .. | 137 | " | 328 |
| 916 | " | " | " " .... | " .. | 139 | " | 329 |
| 917 | " | " | " " .... | " .. | 141 | " | 330 |
| 918 | " | " | " " .... | " .. | 143 | " | 331 |
| 919 | " | " | " " .... | " .. | 145 | " | 332 |
| 920 | " | " | " " .... | " .. | 147 | " | 333 |
| 921 | " | " | " " .... | " .. | 149 | " | 334 |
| 922 | " | " | " " .... | " .. | 151 | " | 335 |
| 923 | " | " | " " .... | " .. | 153 | " | 336 |
| 924 | " | " | " " .... | " .. | 155 | " | 337 |
| 925 | " | " | " " .... | " .. | 157 | " | 338 |
| 926 | " | " | " " .... | " .. | 159 | " | 339 |
| 927 | " | " | " " .... | " .. | 161 | " | 340 |
| 928 | " | " | " " .... | " .. | 163 | " | 341 |
| 929 | " | " | " " .... | " .. | 165 | " | 342 |
| 930 | " | " | " " .... | " .. | 167 | " | 343 |
| 931 | " | " | " " .... | " .. | 169 | " | 1404 |
| 932 | " | " | " " .... | " .. | 171 | " | 344 |
| 933 | " | " | " " .... | " .. | 173 | " | 1405 |
| 934 | " | " | " " .... | " .. | 175 | " | 345 |
| 935 | " | " | " " .... | " .. | 177 | " | 1406 |
| 936 | " | " | " " .... | " .. | 179 | " | 346 |
| 937 | " | " | " " .... | " .. | 181 | " | 1407 |
| 938 | " | " | " " .... | " .. | 183 | " | 347 |
| 113 | | | | | | | |
| 939 | " | " | " " .... | " .. | 185 | " | 1408 |
| 940 | " | " | " " .... | " .. | 187 | " | 348 |
| 941 | " | " | " " .... | " .. | 189 | " | 1409 |
| 942 | " | " | " " .... | " .. | 191 | " | 349 |
| 943 | " | " | " " .... | " .. | 193 | " | 1410 |
| 944 | " | " | " " .... | " .. | 195 | " | 350 |
| 945 | " | " | " " .... | " .. | 197 | " | 1411 |
| 946 | " | " | " " .... | " .. | 199 | " | 351 |
| 947 | " | " | Pecos " .... | " .. | 201 | " | 4426 |
| 948 | " | " | Pecos " .... | " .. | 203 | " | 4427 |
| 949 | " | " | " " .... | " .. | 205 | " | 4428 |
| 950 | " | " | " " .... | " .. | 207 | " | 4429 |
| 951 | " | " | " " .... | " .. | 209 | " | 4430 |
| 952 | " | " | " " .... | " .. | 211 | " | 4431 |

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 953 | 640 | May 17, 1875 | Pecos county... | Unpatented.. | 213 | 10 | 4432 |
| 954 | " | " | " " .... | " .. | 215 | " | 4433 |
| 955 | " | " | " " .... | " .. | 217 | " | 4434 |
| 956 | " | " | " " .... | " .. | 219 | " | 4435 |
| 957 | " | " | " " .... | " .. | 221 | " | 4436 |
| 958 | " | " | " " .... | " .. | 223 | " | 4437 |
| 959 | " | " | " " .... | " .. | 225 | " | 4438 |
| 960 | " | " | " " .... | " .. | 227 | " | 4439 |
| 961 | " | " | " " .... | " .. | 229 | " | 4440 |
| 962 | " | " | " " .... | " .. | 231 | " | 4441 |
| 963 | " | " | Buchel " .. / Brewster " .. | " .. | 233 | " | 321-1412 |
| 964 | " | " | Buchel " ... | " .. | 235 | " | 322 |
| 965 | " | " | Buchel " .. / Brewster " .. | " .. | 237 | " | 323-1413 |
| 966 | " | " | Buchel " .... | " .. | 239 | " | 324 |
| 967 | " | " | Buchel " .. / Brewster " .. | " .. | 241 | " | 325-1414 |
| 968 | " | " | Buchel " .... | " .. | 243 | " | 326 |
| 969 | " | " | Buchel " .. / Brewster " .. | " .. | 245 | " | 327-1399 |
| 970 | " | " | Buchel " .... | " .. | 247 | " | 328 |
| 971 | " | " | Buchel " .. / Brewster " .. | " .. | 249 | " | 329-1400 |
| 972 | " | " | Buchel " .... | " .. | 251 | " | 330 |
| 973 | " | " | Buchel " .. / Brewster " .. | " .. | 253 | " | 331-1401 |
| 974 | " | " | Buchel " .... | " .. | 255 | " | 332 |
| 975 | " | " | Buchel " .. / Brewster " .. | " .. | 257 | " | 333-1402 |
| 114 | | | | | | | |
| 976 | " | " | Buchel " .. / Brewster " .. | " .. | 259 | " | 334-1403 |
| 977 | " | " | Buchel " ... | " .. | 261 | " | 335 |
| 978 | " | " | " " ... | " .. | 263 | " | 336 |
| 979 | " | " | " " .... | " .. | 265 | " | 337 |
| 980 | " | " | " " .... | " .. | 267 | " | 338 |
| 981 | " | " | " " ... | " .. | 269 | " | 339 |
| 982 | " | " | " " .... | " .. | 271 | " | 340 |
| 983 | " | " | " " .... | " .. | 273 | " | 341 |
| 984 | " | " | " " .... | " .. | 275 | " | 342 |
| 985 | " | " | " " .... | " .. | 277 | " | 343 |
| 986 | " | " | " " .... | " .. | 279 | " | 344 |
| 987 | " | " | " " .... | " .. | 281 | " | 345 |
| 988 | " | " | " " .... | " .. | 283 | " | 346 |
| 989 | " | " | " " .... | " .. | 285 | " | 347 |
| 990 | " | " | " " .... | " .. | 287 | " | 348 |
| 991 | " | " | " " ... | " .. | 289 | " | 349 |
| 992 | " | " | " " .... | " .. | 291 | " | 350 |
| #993 | " | " | Buchel " .. / Pecos " .. | " .. | 293 | " | 351-4673 |
| #994 | " | " | Pecos " .. / Buchel " .. | " .. | 295 | " | 352-4674 |
| 995 | " | " | Pecos " .. / Buchel " .. | " .. | 297 | " | 353-4675 |
| 996 | " | " | Pecos " .... | " .. | 299 | " | 4442 |
| 997 | " | " | " " ... | " .. | 301 | " | 4443 |

BLEED THROUGH

| Number of certificate. | Acres. | When issued. | Where located. | Unpatented. | Sur. No. | Block. | Abst. No. |
|---|---|---|---|---|---|---|---|
| 998 | 640 | May 17, 1875 | Pecos county ... | Unpatented.. | 303 | 10 | 4444 |
| 999 | " | " | " " ... | " .. | 305 | " | 4445 |
| 1000 | " | " | " " .... | " .. | 307 | " | 4446 |
| 1001 | " | " | " " ... | " .. | 309 | " | 4447 |
| 1002 | " | " | " " .... | " .. | 311 | " | 4448 |
| 1003 | " | " | " " .... | " .. | 313 | " | 4449 |
| 1004 | " | " | " " .... | " .. | 315 | " | 4450 |
| 1005 | " | " | " " .... | " .. | 1 | 11 | 4451 |
| 1006 | " | " | " " ... | " .. | 3 | " | 4452 |
| 1007 | " | " | " " .... | " .. | 5 | " | 4453 |
| 1008 | " | " | " " .... | " .. | 7 | " | 4454 |
| 1009 | " | " | Jeff Davis " .. . | " .. | 9 | " | 177 |
| 1010 | " | " | " " .... | " .. | 11 | " | 178 |
| 115 | | | | | | | |
| 1011 | " | " | " " .... | " .. | 13 | " | 179 |
| 1012 | " | " | " " .... | " .. | 15 | " | 180 |
| 1013 | " | " | " " .... | " .. | 17 | " | 217 |
| 1014 | " | " | " " .... | " .. | 19 | " | 218 |
| 1015 | " | " | " " .... | " .. | 21 | " | 219 |
| 1016 | " | " | " " .... | " .. | 23 | " | 220 |
| 1017 | " | " | " " .... | " .. | 25 | " | 221 |
| 1018 | " | " | " " ... | " .. | 27 | " | 222 |
| 1019 | " | " | " " .... | " .. | 29 | " | 223 |
| 1020 | " | " | " " ... | " .. | 31 | " | 224 |
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| 1023 | " | " | " " ... | " .. | 37 | " | 227 |
| 1024 | " | " | ½ Presidio " .. / ½ Pecos " .. | " .. | 39 | " | 1075-4455 |
| 1025 | " | " | Pecos " ... | " .. | 41 | " | 4456 |
| 1026 | " | " | " " .... | " .. | 43 | " | 4457 |
| 1027 | " | " | " " .... | " .. | 45 | " | 4458 |
| 1028 | " | " | " " .... | " .. | 47 | " | 4459 |
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| 1033 | " | " | Jeff Davis " .... | " .. | 57 | " | 228 |
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| 1044 | " | " | " " ... | " .. | 79 | " | 239 |
| 1045 | " | " | ½ Presidio " .. / ½ Pecos " .. | " .. | 81 | " | 1096-4464 |
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| 1046 | " | " | Pecos " .... | " .. | 83 | " | 4465 |
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| 1049 | " | " | " " .... | " .. | 89 | " | 4468 |
| 1050 | " | " | " " .... | " .. | 91 | " | 4469 |



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| Number of certificate. | Acres. | When issued. | Where located. | Unpatented. | Sur. No. | Block. | Abst. No. |
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| 1051 | 640 | May 17, 1875 | Pecos county.... | Unpatented.. | 93 | 11 | 4470 |
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| 1054 | " | " | " " .... | " .. | 99 | " | 4473 |
| 1055 | " | " | " " .... | " .. | 101 | " | 4474 |
| 1056 | " | " | 7/10 Reeves " .. / 2/10 Pecos " .. / 1/10 Presidio " .. | " .. | 103 | " | 250-4457-1107 |
| 1057 | " | " | Jeff Davis " .... | " .. | 105 | " | 240 |
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| 1065 | " | " | " " .... | " .. | 121 | " | 248 |
| 1066 | " | " | 1/5 Reeves " .. / 4/5 Jeff Davis " .. | " .. | 123 | " | 249-251 |
| 1067 | " | " | Reeves " .... | " .. | 125 | " | 252 |
| 1068 | " | " | 3/4 Reeves " .. / 1/4 Pecos " .. | " .. | 127 | " | 253-4578 |
| 1069 | " | " | Pecos " .... | " .. | 129 | " | 4475 |
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| 1079 | " | " | " " .... | " .. | 149 | " | 255 |
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| 1081 | " | " | 1/4 Reeves " .. / 3/4 Jeff Davis " .. | " .. | 153 | " | 257-250 |
| 1082 | " | " | Jeff Davis " .... | " .. | 155 | " | 251 |
| 1083 | " | " | " " .... | " .. | 157 | " | 252 |
| 1084 | " | " | " " .... | " .. | 159 | " | 253 |
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| 1088 | " | " | 3/4 Jeff Davis " .. / 1/4 Reeves " .. | " .. | 167 | " | 257-258 |
| 1089 | " | " | Reeves " .... | " .. | 169 | " | 259 |
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| 1091 | " | " | " " .... | " .. | 173 | " | 261 |
| 1092 | " | " | 1/2 Reeves " .. / 1/2 Pecos " .. | " .. | 175 | " | 262-4577 |
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| 1100 | " | " | 1/2 Reeves " .. / 1/2 Presidio " .. | " .. | 191 | " | 263-1151 |

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| 1101 | 640 | May 17, 1875 | Reeves county.... | Unpatented.. | 193 | 11 | 264 |
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| 1105 | " | " | ½ Reeves " .. ½ Jeff Davis " .. | " | 201 | " | 268–258 |
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| 1110 | " | " | 5/6 Reeves " .. 1/6 Jeff Davis " .. | " | 211 | " | 1161 |
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| 1141 | " | " | ½ Pecos " .. ½ Reeves " .. | " | 273 | " | 4418–12 |
| 1142 | " | " | Presidio " .... | Jan. 13, 1890 | 1 | 12 | 1193 |
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| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. | Patentee. |
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| 1153 | 640 | Aug. 11, 1875 | Presidio county | Jan. 14, 1890 | 23 | 12 | 1204 | |
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| 1167 | " | Sept. 1, 1875 | Presidio county | Jan. 2, 1890 | 51 | " | 1218 | |
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| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. | Patentee. |
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| 1205 | 640 | Sept. 1, 1875 | Presidio county | Jan. 7, 1890 | 127 | 12 | 1256 | G. H. & S. A. R'y Co. |
| 1206 | " | " | " " | " | 129 | " | 1257 | " |
| 1207 | " | " | Brewster " | Unpatented | 1 | 13 | 527 | |
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| 1241 | " | " | " " | " | 69 | " | 561 | |
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| 1284 | " | " | Schleicher " | July 18, 1876 | 9 | B | 382 | |
| 1285 | " | " | " " | " | 11 | " | 278 | |
| 1299 | " | " | Sutton " | Aug. 1, 1876 | 25 | C | 205 | |
| 1336 | 596 7/10 | " | San Saba " | Jan. 11, 1887 | 1 | ... | 505 | G. H. & S. A. R'y Co. |
| 1337 | 640 | " | " " | 12, 1877 | 1 | ... | 506 | " |
| 1339 | " | " | " " | 12, 1877 | 1 | ... | 507 | " |
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| 1341 | 320 | " | McCulloch, " 55 acres, & Menard, 265 acres | 25, 1887 | 75 | { | 432-1324 | " |
| 1356 | 640 | " | McCulloch " | Aug. 4, 1876 | 69 | D | 448 | " |

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| 1357 | 640 | Sept. 1, 1875 | Val Verde county | Unpatented | 17 | A2 | Omitted. | |
| 1358 | " | " | " " | " | 59 | A2 | 886 | |
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| 1359 | " | Nov. 10, 1876 | Schleicher " | Sept. 28, 1888 | 1 | H | 315 | G. H. & S. A. R'y Co. |
| 1360 | " | " | " " | " | 3 | " | 316 | " |
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| 1380 | " | " | " " | Oct. 4, 1888 | 43 | " | 336 | " |
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| 1389 | " | " | " " | Sep. 29, 1888 | 61 | " | 345 | " |
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| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. | Patentee. |
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| 1410 | 640 | Nov. 10, 1876 | Schleicher county | ..... | 19 | I | 207 | G. H. & S. A. R'y Co. |
| 1411 | " | " | " " | ..... | 21 | " | 208 | " |
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| 1435 | " | " | " " | " | 69 | " | 253 | " |
| 1436 | " | " | " " | " | 71 | " | 254 | " |
| 1437 | " | " | " " | " | 73 | " | 255 | " |
| 1438 | " | " | " " | " | 75 | " | 256 | " |
| 124 | | | | | | | | |
| 1439 | " | " | " " | ..... | 77 | " | 257 | " |
| 1440 | " | " | Sutton | Aug. 10, 1885 | 1 | K | 207 | " |
| 1441 | " | " | Schleicher | " | 3 | " | 258 | " |
| 1442 | " | " | " " | " | 5 | " | 259 | " |
| 1443 | " | " | " " | " | 7 | " | 260 | " |
| 1444 | " | " | Sutton | " | 9 | " | 208 | " |
| 1445 | " | " | " " | " | 11 | " | 209 | " |
| 1446 | " | " | Schleicher | " | 13 | " | 261 | " |
| 1447 | " | " | " " | Aug. 8, 1885 | 15 | " | 262 | " |
| 1448 | " | " | " " | " | 17 | " | 263 | " |
| 1449 | " | " | " " | 10, | 19 | " | 210 | " |
| 1450 | " | " | " " | " | 21 | " | 211 | " |
| 1451 | " | " | " " | " | 23 | " | 212 | " |
| 1452 | " | " | " " | 8, | 25 | " | 213 | " |
| 1453 | " | " | " " | 10, | 27 | " | 214 | " |
| 1454 | " | " | " " | " | 29 | " | 215 | " |
| 1455 | " | " | Schleicher | " | 31 | " | 264 | " |
| 1456 | " | " | " " | " | 33 | " | 265 | " |
| 1457 | " | " | " " | " | 35 | " | 266 | " |
| 1458 | " | " | " " | " | 37 | " | 267 | " |
| 1459 | " | " | " " | " | 39 | " | 268 | " |
| 1460 | " | " | Sutton | " | 41 | " | 216 | " |
| 1461 | " | " | " " | " | 43 | " | 217 | " |
| 1462 | " | " | " " | " | 45 | " | 218 | " |
| 1463 | " | " | " " | " | 47 | " | 219 | " |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1464 | 640 | Nov. 10, 1876 | Sutton county.. | Aug. 10, 1885 | 49 | K | 220 | G. H.&S. A. R'y Co. |
| 1465 | " | " | Schleicher " .. | " | 51 | " | 269 | " |
| 1466 | " | " | " " .. | " | 53 | " | 270 | " |
| 1467 | " | " | " " .. | " | 55 | " | 271 | " |
| 1468 | " | " | Sutton " .. | " | 57 | " | 221 | " |
| 1469 | " | " | " " .. | " | 59 | " | 222 | " |
| 1470 | " | " | " " .. | " | 61 | " | 223 | " |
| 1471 | " | " | " " .. | " | 63 | " | 224 | " |
| 1472 | " | " | " " .. | " | 65 | " | 225 | " |
| 1473 | " | " | Schleicher " .. | " | 67 | " | 272 | " |
| 1474 | " | " | " " .. | " | 69 | " | 273 | " |
| 125 | | | | | | | | |
| 1475 | " | " | " " .. | " | 71 | " | 274 | " |
| 1476 | " | " | Sutton " .. | " | 73 | " | 226 | " |
| 1477 | " | " | " " .. | " | 75 | " | 227 | " |
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| 1480 | " | " | " " .. | " | 81 | " | 230 | " |
| 1481 | " | " | Schleicher " .. | " | 83 | " | 275 | " |
| 1482 | " | " | " " .. | " | 85 | " | 276 | " |
| 1483 | " | " | " " .. | " | 87 | " | 277 | " |
| 1484 | " | " | " " .. | 17, | 1 | L | 212 | " |
| 1485 | " | " | " " .. | " | 3 | " | 213 | " |
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| 1487 | " | " | " " .. | " | 7 | " | 215 | " |
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| 1492 | " | " | " " .. | " | 17 | " | 220 | " |
| 1493 | " | " | " " .. | " | 19 | " | 221 | |
| 1494 | " | " | " " .. | Aug. 17, 1885 | 21 | " | 222 | |
| 1495 | " | " | " " .. | " | 23 | " | 223 | |
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| 1500 | " | " | " " .. | " | 33 | " | 228 | |
| 1501 | " | " | " " .. | " | 35 | " | 229 | |
| 1502 | " | " | " " .. | " | 37 | " | 230 | |
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| 1504 | " | " | " " .. | " | 41 | " | 232 | |
| 1505 | " | " | " " .. | " | 43 | " | 233 | |
| 1506 | " | " | " " .. | " | 45 | " | 234 | |
| 1507 | " | " | " " .. | " | 47 | " | 235 | |
| 1508 | " | " | " " .. | " | 49 | " | 236 | |
| 1509 | " | " | " " .. | Sep. 28, 1888 | 1 | M | 237 | |
| 126 | | | | | | | | |
| 1510 | " | " | " " .. | " | 3 | " | 238 | |
| 1511 | " | " | " " .. | 27, | 5 | " | 239 | |
| 1512 | " | " | " " .. | " | 7 | " | 240 | |
| 1513 | " | " | " " .. | " | 9 | " | 241 | |
| 1514 | " | " | " " .. | " | 11 | " | 242 | |
| 1515 | " | " | " " .. | " | 13 | " | 243 | |
| 1516 | " | " | " " .. | " | 15 | " | 244 | |
| 1517 | " | " | " " .. | 26, | 17 | " | 245 | |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1518 | 640 | Nov. 10, 1876 | Schleicher county | Sept. 26, 1888 | 19 | M | 349 | |
| 1519 | " | " | " " | " | 21 | " | 350 | |
| 1520 | " | " | " " | 25, | 23 | " | 351 | |
| 1521 | " | " | " " | " | 25 | " | 352 | |
| 1522 | " | " | " " | " | 27 | " | 353 | |
| 1523 | " | " | " " | " | 29 | " | 354 | |
| 1524 | " | " | " " | " | 31 | " | 355 | |
| 1525 | " | " | " " | " | 33 | " | 356 | |
| 1526 | " | " | " " | 24, | 35 | " | 357 | |
| 1527 | " | " | " " | " | 37 | " | 358 | |
| 1528 | " | " | " " | " | 39 | " | 359 | |
| 1529 | " | " | " " | " | 41 | " | 360 | |
| 1530 | " | " | " " | 22, | 43 | " | 361 | |
| 1531 | " | " | " " | " | 45 | " | 362 | |
| 1532 | " | " | " " | " | 47 | " | 363 | |
| 1533 | " | " | " " | " | 49 | " | 364 | |
| 1534 | " | " | " " | 21, | 51 | " | 365 | |
| 1535 | " | " | " " | " | 53 | " | 366 | |
| 1536 | " | " | " " | " | 55 | " | 367 | |
| 1537 | " | " | " " | " | 57 | " | 368 | |
| 1538 | " | " | " " | " | 59 | " | 369 | |
| 1539 | " | " | " " | " | 61 | " | 370 | |
| 1540 | " | " | " " | " | 63 | " | 371 | G. H. & S. A. R'y Co. |
| 1541 | " | " | " " | " | 65 | " | 372 | " |
| 1542 | " | " | " " | " | 67 | " | 373 | " |
| 1543 | " | " | " " | " | 69 | " | 374 | " |
| 1544 | " | " | " " | " | 71 | " | 375 | " |
| 127 | | | | | | | | |
| 1545 | " | " | " " | 20, | 73 | " | 376 | " |
| 1546 | " | " | " " | " | 75 | " | 377 | " |
| 1547 | " | " | " " | " | 77 | " | 378 | " |
| 1548 | " | " | " " | " | 79 | " | 379 | " |
| 1549 | " | " | Kimble " | ..... | 1 | N | 230 | |
| 1550 | " | " | " " | ..... | 3 | " | 231 | |
| 1551 | " | " | " " | ..... | 5 | " | 232 | |
| 1552 | " | " | " " | ..... | 7 | " | 233 | |
| 1553 | " | " | " " | ..... | 9 | " | 234 | |
| 1554 | " | " | " " | ..... | 11 | " | 235 | |
| 1555 | " | " | " " | ..... | 13 | " | 236 | |
| 1556 | " | " | " " | ..... | 15 | " | 237 | |
| 1557 | " | " | " " | ..... | 17 | " | 238 | |
| 1558 | " | " | " " | ..... | 19 | " | 239 | |
| 1559 | " | " | " " | ..... | 21 | " | 240 | |
| 1560 | " | " | " " | ..... | 23 | " | 241 | |
| 1561 | " | " | " " | ..... | 25 | " | 242 | |
| 1562 | " | " | " " | ..... | 27 | " | 243 | |
| 1563 | " | " | " " | ..... | 29 | " | 244 | |
| 1564 | " | " | " " | ..... | 31 | " | 245 | |
| 1565 | " | " | " " | ..... | 33 | " | 246 | |
| 1566 | " | " | " " | ..... | 35 | " | 247 | |
| 1567 | " | " | " " | ..... | 37 | " | 248 | |
| 1568 | " | " | " " | ..... | 39 | " | 249 | |
| 1569 | " | " | " " | ..... | 41 | " | 250 | |
| 1570 | " | " | " " | ..... | 43 | " | 251 | |
| 1571 | " | " | " " | ..... | 45 | " | 252 | |
| 1572 | " | " | " " | ..... | 47 | " | 253 | |

| Number of certificate. | Acres. | When issued. | Where located. | Patented. | Sur. No. | Block. | Abst. No. | Patentee. |
|---|---|---|---|---|---|---|---|---|
| 1573 | 640 | Nov. 10, 1876 | Kimble county | | 49 | N | 254 | |
| 1574 | " | " | " " | | 51 | " | 255 | |
| 1575 | " | " | " " | | 53 | " | 256 | |
| 1576 | " | " | " " | | 55 | " | 257 | |
| 1577 | " | " | " " | | 57 | " | 258 | |
| 1578 | " | " | " " | | 59 | " | 259 | |
| 1579 | " | " | " " | | 61 | " | 260 | |
| 128 | | | | | | | | |
| 1580 | " | " | " " | | 63 | " | 261 | |
| 1581 | " | " | " " | | 65 | " | 262 | |
| 1582 | " | " | " " | | 67 | " | 263 | |
| 1583 | " | " | " " | | 69 | " | 264 | |
| 1584 | " | " | " " | | 71 | " | 265 | |
| 1585 | " | " | " " | | 73 | " | 266 | |
| 1586 | " | " | " " | | 75 | " | 267 | |
| 1587 | " | " | " " | | 77 | " | 268 | |
| 1588 | " | " | " " | | 79 | " | 269 | |
| 1589 | " | " | " " | | 81 | " | 270 | |
| 1590 | " | " | " " | | 83 | " | 271 | |
| 1591 | " | " | " " | | 85 | " | 272 | |
| 1592 | " | " | " " | | 87 | " | 273 | |
| 1593 | " | " | " " | | 89 | " | 274 | |
| 1594 | " | " | " " | | 91 | " | 275 | |
| 1595 | " | " | " " | | 93 | " | 276 | |
| 1596 | " | " | " " | | 95 | " | 277 | |
| 1597 | " | " | " " | | 97 | " | 278 | |
| 1598 | " | " | " " | | 99 | " | 279 | |
| 1599 | " | " | " " | | 101 | " | 280 | |
| 1600 | " | " | " " | | 103 | " | 281 | |
| 1601 | " | " | " " | | 105 | " | 282 | |
| 1602 | " | " | " " | | 107 | " | 283 | |
| 1603 | " | " | Val Verde " | | 57 | A2 | 883 | |
| 1604 | " | " | Kimble " | | 111 | N | 284 | |
| 1605 | " | " | " " | | 113 | " | 285 | |
| 1606 | " | " | " " | | 115 | " | 286 | |
| 1607 | " | " | " " | | 117 | " | 287 | |
| 1608 | " | " | Val Verde " | | 61 | A2 | 884 | |
| 1609 | " | " | Pecos " | | 35 | " | 1945 | |
| 1610 | " | " | " " | | 37 | " | 1946 | |
| 1611 | " | " | " " | | 39 | " | 1947 | |
| 1612 | " | " | " " | | 41 | " | 1948 | |
| 1613 | " | " | " " | | 43 | " | 1913 | |
| 1614 | " | " | " " | | 45 | " | 1914 | |
| 129 | | | | | | | | |
| 1615 | " | " | Zavalla " | Oct. 18, 1887 | 13 | O | 147 | G. H. & S. A. R'y Co. |
| 1616 | " | " | Pecos " | | 47 | A2 | 1915 | |
| 1617 | " | " | " " | | 49 | " | 1916 | |
| 1618 | " | " | " " | | 51 | " | 1917 | |
| 1619 | " | " | " " | | 53 | " | 1918 | |
| 1620 | " | " | " " | | 55 | " | 1919 | |

FLEED THROUGH

Numbers 1/1 to 1/48, 1/116 to 120, 1/122, 1/124, 1/126, 1/128, 1/130, 1/132, 1/134, 1/140 to 1/299, and 1/230 to 1/415, inclusive, of said certificates being issued to the Galveston, Harrisburg and San Antonio Railway Company for the section of road (including sidings) beginning at the point of junction with the old line of the Buffalo Bayou, Beazos and Colorado Railway Co. at a distance of 493 feet west of the west end of the approach to the bridge over the Colorado river and ending at the west approach to the bridge over the West Navidad river; numbers 1/416 to 1/813, 1/831, 1/835, 1/840, 1/843, 1/846, 1/857, 1,855, 1/858 of said certificates being issued to the said company for the section of road (including sidings) beginning at the western sill of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, it being the first one east of Buck branch; numbers 859 to 1166 of said certificates being issued to said company for the section of road (including sidings) beginning at a red sandstone culvert, the first one east of Buck's branch and ending at the turn-table at Luling; numbers 1167 to 1246, 1284, 1285, 1299, 1336, 1337, 1339 to 1341 to 1358 of said certificates being issued to said company for the section of road (including sidings) beginning at the station-house at Luling and ending at west end of the siding at Kingsbury; numbers 1359 to 1620 being issued to said company for the section of road (including sidings) beginning at east pier of Guadalupe bridge, thence eastward, ending at a point opposite the depot door at Kingsbury, and said locations and surveys being made by virtue of said certificates.

And it is further ordered, adjudged, and decreed that each and all of said certificates be and they are hereby cancelled and held for naught, and each and all of said patents are hereby cancelled and shall hereafter be held for naught, and the cloud cast upon the title of the State to the lands located and surveyed under said certificates is hereby removed.

And it is adjudged and decreed that the State of Texas has perfect and complete title to all of said lands. It is further ordered and decreed that the plaintiff, The State of Texas, do have her writ or writs placing her in possession of each and all of said parcels or tracts of land; and it is further decreed that the plaintiff do have and recover all costs in this cause expended, for which execution may issue.

And to this judgment the defendant in open court excepted and gave notice of appeal to the court of civil appeals of the fourth supreme judicial district of Texas, at San Antonio, and it was ordered that the defendant have ten days after the adjournment of this court in which to prepare a statement of facts. (Entered on Minutes Dist. Court Brewster Co., pages 319 to 358, vol. 1, inclusive.)

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*Agreed Statement of Facts.*

Filed Sept. 14, 1893.

THE STATE OF TEXAS *vs.* THE G., H. & S. A. R'Y CO. } Suit Pending in the District Court of Brewster County.

Statement of facts.

Be it remembered on the trial of this cause, beginning on the 13th and ending on the 14th days of September, 1893, the following proceedings were had and evidence introduced, to wit:

1st. The following agreement of parties as to certain facts, to wit:

131 In the District Court of Brewster County.

THE STATE OF TEXAS *vs.* G., H. & S. A. R'Y CO. } # 101.

We agree that the following facts may be used on the trial of the above-stated cause:

I. It is agreed that the defendant company received from the State and located the certificates described in plaintiff's petition, and that said petition contained a true statement of the number of certificates issued, the number of each certificate, the number of acres, the date when certificates were issued, the counties in which located, the section of road for which said certificates issued, as well as the number of miles of main track and sidings in each section, and whether the same has been patented and the date of the patents.

II. It is further agreed that the defendant railway company begun the construction of the first section of its road, that part of its road for which certificates in this suit were issued, at the point of junction with the old line of the Buffalo Bayou, Brazos and Colorado railroad, at a distance of 493 feet west of the west approach to the bridge over the Colorado river, and ending at the west end of west approach over the West Navidad river, subsequent to July 27, 1870, and completed the same December 19, 1873.

That the second section of defendant company's road, from the "western sill of the western approach to the bridge over the west Navidad river and ending at the center of a red sandstone culvert, the first one east of 'Buck's branch,'" was constructed and completed between July 27, 1870, and June 25, 1874.

That the third section of defendant company's road, from a "red sandstone culvert, the first one east of Buck's branch, and ending at the turn-table at Luling," was constructed and completed between July 27, 1870, and January 16, 1875.

That the fourth section of defendant company's road, between "the station-house at Luling and ending at the west ending of the siding at Kingsbury," was constructed and completed between July 27, 1870, and July 12, 1875.

BLEED THROUGH

That the fifth section of defendant company's road, between "the east pier of the Guadalupe bridge, thence eastward, ending at
132 a point opposite the depot door at Kingsbury or the west end of the siding where the last inspection terminated," was constructed and completed between July 27, 1870, and October 27, 1876.

That that portion of the road of defendant company between the Colorado river and San Antonio was completed to San Antonio Feb. 13, 1877.

III. That said railroad was thereafter constructed and put in running order and operated from said beginning, at the bridge over the Guadalupe river, to El Paso, in El Paso county, being a distance of — miles.

IV. It is further agreed that the charters and special laws relating to defendant's company and relating to grants of land to railroad companies may be used on the trial in evidence and considered without the necessity of incorporating the same in the statement of facts, as well as all special laws incorporating railroads, and other laws, general and special, granting lands and land certificates for works of internal improvements.

V. Any other pertinent fact may be introduced by either party on trial.

VI. There are now remaining and belonging to the State of Texas — acres of public domain, reserved since 1879 from location by certificates.

VII. Defendant paid taxes on land sued for continuously since they were located up to the present time, which was received by the State of Texas and by it used as other taxes are used by the State.

VIII. Defendant paid all fees for locating and surveying the said lands sued for, as well as the same number of alternate sections, known as the even-numbered, for the public free school fund, and have paid all surveying fees and all fees to the commissioner of the general land office in respect thereto and all sums of money necessary for its protection and in the way of betterments for the preservation of the same, etc.

IX. The said certificates for land described in plaintiff'- petition were issued to it after the said railway company had completed and after the governor had appointed an engineer to examine the same and report; which engineer did examine the same and report to the governor the condition of said road; and thereupon the governor approved the report, and thereupon the land commissioner issued certificates to said railway company, signed by the commis-
133 sioner of the general land office, calling for main line and sidings, not separating the sidings from the main line.

X. At the time *of* the act of Jan'y 30, 1854, became a law E. M. Pease was governor of the State of Texas. It was by his approval as such governor that the bill passed the legislature and became a law.

The first certificates that were issued under the act of Jan'y 30, 1854, were authorized and directed to be made by the said E. M. Pease, whose term of office had not then expired.

These certificates were issued upon a report made by Tipton

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Walker, engineer, appointed by Governor Pease in pursuance of the provisions of said act, which report bears date of March 24, 1856, and is now on file in the proper department of the State, in the capitol, at Austin.

In this report said Tipton Walker specially states that the railway company to whom said certificates were issued had completed of its main line a certain number of miles, and also states the length of sidings that had been constructed.

Upon receiving this report the said E. M. Pease, as governor as aforesaid, in a letter addressed to Hon. Stephen Crosby, commissioner of the general land office, under date of March 31, 1856, advised said Crosby, as such commissioner, that the president of the railway company making application for said certificates had notified him (the governor) that said railway company had completed and put in running order a section of twenty-five miles and more of its road; that, there being no State engineer, he had appointed under the act of Jan'y 30, 1854, Tipton Walker engineer to examine said section of road, and that he then enclosed a copy of said report under oath, with the affidavit accompanying the same, from the said engineer, wherein said engineer reported that said section, containing (with the necessary turnouts) 32.12 miles, is constructed in accordance with the provisions of its charter and the general laws of the State in force regulating railroads.

XI. The various engineers appointed by the different governors to inspect railways as the same were constructed, in their respective reports of inspection to the respective governors stated the number of miles and feet of main track, the number of miles or feet of sidings, the number of miles or feet of bridges, culvert-, and tressels, the number of depots, cars, engines, weight of iron, and width and character of track and grade. The action of the respective governors (except Governor Roberts) on said reports *were* usually
134 in the following words: "Reports examined and approved;" upon which reports and action of the respective governors the commissioner of the general land office issued to the respective companies the certificates for main track and sidings.

During the administration of Governor Roberts the reports of the engineers were in substance and form of those made to other governors, but he approved for only the number of miles of main track stated in the reports.

In one instance during the administration of Governor Davis he approved one report for sidings exclusively, for which certificates were issued in the usual amount per mile. This was also done in one instance by Governor Hubbard, for which certificates issued. On March 13, 1877, Governor Hubbard made the following endorsement on one of the reports: "This report of Inspector Gray examined and approved for thirty miles of main track and sidings as being made, graded, and in all respects complying with the law." In many cases patents were issued on said certificates for both main line and turnouts, and in some cases did not separate the quantity of land for main line from the quantity of land for sidings.

BLEED THROUGH

XII. The said railway company had expended large sums of money, as aforesaid, in the work of surveying such lands, locating and correcting the same; also in preserving said railway company and enabling it to perform the duties incumbent upon it as a common carrier, and has paid large sums of money by way of taxes to the State of Texas.

XIII. Said lands have been surveyed in all respects as the law require- lands to be surveyed for railway companies by virtue of the donations or grants of land into tracts of six hundred and forty acres, where the same could be done, surveying an equal amount for the benefit of the school fund, the field-notes of which were recorded and are now in the proper surveyor's office; that maps, plats, and sketches thereof were duly made, which, with the field-notes and cerficates, have been duly returned to the general land office of the State of Texas within the time required by law, and have remained on file in the land office ever since; that the same were duly platted upon the maps of the general land office of the State of Texas and suitably marked as the lands of the railway company. The maps of the same are in use *of* the land office of the State of Texas now. The odd sections recognized as said railway
135 company's lands and maps thereof have been furnished to the county surveyors in all the counties where the said lands are situated and are now in their possession and control, showing said lands platted thereon and recognized by the State of Texas, through the officers, as the lands granted to said defendant railway company.

XIV. The following commissioners have issued land certificates for sidings, as well as for main line, to wit: Stevens, Crosby, White, Kuechler, and Groos.

During the administration of the following governors land certificates were issued for sidings and main line to the railway companies named as follows:

Gov. E. M. Pease:

To the Buffalo Bayou, Brazos & Colorado R. R.

Gov. H. Runnels:

To the Southern Pacific R. R. Co.
To the San Antonio & Mexican R. R. Co.

Gov. Sam. Houston:

To the Southern Pacific Railroad Co.
To the Washington Co. R. R. Co.

Gov. Edward Clark:

To the Washington Co. R. R. Co.
To the B. B., B. & C. R. R. Co.

Gov. J. W. Throckmorton:

To the T. & N. O. R. R. Co.
To the Washington Co. R. R. Co.

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Gov. E. J. Davis:

To the G., H. & S. A. R. R. Co.
To the Galveston, Houston & Henderson R. R. Co.
To the Indianola R. R. Co.
To the Texas Pacific Railroad Co.
To the Houston & Great Northern R. R. Co.
To the Houston & Texas Central Railway Co.
To the Waco & Northwestern R'y Co.

Gov. Richard Coke:

To the Texas & Pacific Railroad Co.
To the Houston & Great Northern R. R. Co.
To the Gulf, Colorado & Santa Fé R'y Co.
To the Galveston, Harrisburg & San Antonio R. R. Co.

Gov. R. Hubbard:

To the Texas Pacific R. R. Co.
136 To the Houston & Great Northern R'y.
To the Gulf, Colorado & Santa Fé R'y.
To the Denison & Southeastern.
To the East Line & Red River R. R.
To the Tyler Tap R. R.
To the Houston, East & West Texas R. R.
To the Georgetown.
To the Dallas & Wichita.
To the Galveston, Harrisburg & San Antonio R. R.
To the Texas Western.

XV. The lands were surveyed and located and certificates issued as shown by the statement in plaintiff's petition, and it will not be necessary for either party to procure copies of the field-notes or patents.

XVI. The defendant company completed its line of railway from San Antonio to El Paso and to Rio Grande river, in El Paso county, beginning on the — day of ——, a distance of 623.14 miles, and ending on the — day of ——, 18—, for which it never received any certificates for lands. H. B. Andrews, as vice-president of the Galveston, Harrisburg & San Antonio Railway Company, made application to His Excellency O. M. Roberts, governor of the State of Texas, to appoint a civil engineer to examine and inspect said portion of completed line; which application was refused by Gov. Roberts. The said application and the refusal of the governor thereupon is as follows:

SAN ANTONIO, *May* 9, 1882.

To His Excellency O. M. Roberts, governor of Texas.

SIR: I would respectfully request your excellency to appoint some competent civil engineer to examine a portion of the completed line of railroad belonging to the Galveston, Harrisburg & San Antonio Railway Company west of the city of San Antonio, beginning at said city and extending to Del Rio, on the Rio Grande, and beginning at El Paso, in El Paso county, and extending to a point within fifty

BLEED THROUGH

miles of Eagle's Nest, on the Rio Grande, in Pecos county. The said railroad has been built and completed in accordance
137 with the laws of Texas and the charter of said company. Completed road about four hundred and sixty miles.

Respectfully,

(Signed) H. B. ANDREWS,
*Vice-President G., H. & S. A. R'y Co.*

The envelope in which this application is enclosed is endorsed as follows: "Application for inspection of the G., H. & S. A. R'y 460 miles west of San Antonio, &c., by H. B. Andrews, V.-president. May 9, 1882. Received May 22, 1882. Answered and refused May 22, 1882, because the law granting certificates has been repealed. (Signed) O. M. Roberts, gov."

XVII. It may be shown by the special charters or by the special acts of the legislature the different roads which received land grants in Texas.

XVIII. The act legalizing the organization of the Buffalo Bayou, Brazos and Colorado R. R. Co. was approved September 4th, 1850.

The Southern Pacific Railroad Company was chartered August 16, 1856.

The San Antonio & Mexican Gulf Railway Company was chartered Sept. 5, 1850.

The Washington County Railroad Company was incorporated February 2, 1856.

The Texas & New Orleans Railroad Company was incorporated prior to Feb'y 7, 1861.

The Galveston, Houston & Henderson Railroad Company was incorporated February 7, 1853.

The Indianola Railway Company was incorporated Jan'y 21, 1858.

The Texas & Pacific Railway Company was not chartered by the State of Texas.

The Houston & Texas Central Railway Company was incorporated September 1, 1856.

The Waco Tap Railroad Company was incorporated in 1866.

By act of May 24, 1873, the Waco and Northwestern Rail-
138 road Company was merged with the Houston & Texas Central Railway Company.

The Gulf, Colorado & Santa Fé Railroad Company was incorporated May 28, 1873.

The Denison and Southeastern Railroad Company was chartered July 27, 1877.

The East Line & Red River Railroad Company was incorporated by an act of March 22, 1871.

The Tyler Tap Railroad Company was incorporated by act of December 1, 1871.

The Houston, East & West Texas Railway Company was incorporated by act of March 11, 1875.

The Georgetown Railroad Company was chartered May 31, 1878.



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The Dallas and Wichita Railroad Company was incorporated December 2, 1871.

The Texas Western Railroad Company was incorporated Feb'ry 16, 1852.

The Columbus Tap Railroad Company was incorporated Feb'ry 2, 1860.

The Gulf, Western Texas & Pacific Railroad Company consolidated with the Indianola & San Antonio Railroad Company Aug. 4, 1870.

The Galveston, Brazos, Colorado N. G. railroad was incorporated Feb'y 2, 1875.

XIX. It is further agreed that it may hereafter be shown in evidence the date when Gen. W. P. Hardeman inspected the said railroad company from San Antonio west, and his report in reference thereto may also be introduced in evidence.

XX. The defendant company located the land sued for by virtue of 315 certificates out of 415 issued on the first section of that portion of its road from the Colorado river to the Guadalupe bridge; the 407 certificates of the 433 issued on the second section of its road; the 308 certificates issued on the third section of its road; 91 certificates of the 192 issued on the fourth section of its road, and the 262 certificates issued on the fifth section of its road, said sections of road being as heretofore referred to in this agreement.

XXI. That either party may read and have considered in evidence reports of land commissioners of this State showing number of acres of unappropriated public domain; also messages of
139 the governors showing same at stated periods and up to the present time.

That the railway company long prior to the institution of this suit executed mortgages for large amounts of money to secure issue of bonds. The mortgages were secured upon the following property, the line of road and its franchises, and on all the lands, locations, surveys, land scrip, and rights to lands that have been or may be hereafter acquired by said company for the construction of its railroad from Harrisburg to San Antonio by virtue of any general or special acts of the legislature of the State of Texas making donations of lands.

Some of said mortgages are each for the sum of $20,000.00 per mile of the road. One of said mortgages is the mortgage mentioned in defendant's plea, in which George F. Stone is the sole surviving trustee, and it shall not be necessary to further describe the said mortgages. The said mortgages and bonds which they secure were issued and floated on the money market and money obtained for the purpose of building and constructing the railroad of defendant company, and were duly recorded in the counties where lands are situated.

The railway company treated and understood, and also the holders of said mortgages so understood, that the land- sued for were embraced in and secured by said mortgages, but this point is not conceded by plaintiff.

The State refused to issue and grant any certificates to the de-

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fendant company for any part of the road constructed west from San Antonio to El Paso, which is a distance of 623.14 miles of road.

It was shown by defendant further that the construction of that part of the railroad began west at Columbus, in March, 1873, and was completed to the West Navidad about Jan'y 1, 1874.

The road was opened for business on the following dates: Weimar, Nov. 16, 1873; Schulenburg, Dec. 1, 1873; Flatonio, April 16, 1874; Waelder, July 1, 1874; Luling, Sept. 1, 1874; Kingsbury, July 23, 1875; Seguin, August 10, 1875; Guadalupe river, August 10, 1876.

Construction west of San Antonio began in May, 1881. The first grading at Rio Grande river, near El Paso, was done on March 28, 1881. The construction of the road was finished from El Paso eastward Dec. 27, 1882. The road was opened for business west from San Antonio and El Paso at La Coste, 25 miles, Oct. 1, 1881; at Hondo, 50 miles, 1881; at Sabinal, 71 miles, Oct. 24, 1881; at Uvalde, 93 miles, Nov. 21, 1881; at Eagle Pass junction, 132 miles, March 6, 1882; at Del Rio, 170 miles, June 23, 1882. Construction west from San Antonio and east from El Paso met in January, 1883.

Defendant introduced the following certificates from the office of the secretary of state, to wit:

SAN ANTONIO, *June* 13, 1881.

To His Excellency O. M. Roberts, governor of Texas.

SIR: I have the honor to inform your excellency that the Galveston, Harrisburg & San Antonio Railway Company have completed an extension of their main line of railway from their terminus in the city of San Antonio westward a distance of over ten miles. The same has been built and completed in full compliance with the laws of Texas governing the construction of railroads and the provisions of the charter of said company, and is a portion of their line being built to connect with a railroad being constructed from the Pacific coast. I would therefore respectfully request the appointment of some competent engineer to inspect and report upon said completed portion of this extension in order that this company may obtain the number of certificates for land to which it is entitled under the laws of Texas.

Very respectfully,

(Signed) H. B. ANDREWS,
*Vice-President.*

SAN ANTONIO, *May* 9, 1882.

To His Excellency O. M. Roberts, governor of Texas.

SIR: I would respectfully request your excellency to appoint some competent civil engineer to examine a portion of the completed line of railroad belonging to the Galveston, Harrisburg & San Antonio railway west of the city of San Antonio, beginning at said city and extending to Del Rio, on the Rio Grande, and beginning at El Paso, in El Paso county, and extending to a point within fifty miles of Eagle's Nest, on the Rio Grande, in Pecos county. The said rail-

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road has been built and completed in accordance with the
141 laws of Texas and the charter of said company; completed road about 460 miles.

Respectfully,

(Signed) H. B. ANDREWS,
*Vice-Pres't G., H. & S. A. R'y Co.*

Endorsed: Application for inspection of the G., H. & S. A. R'w'y 460 miles west of San Antonio, etc., by H. B. Andrews, V.-pres't. May 9, 1882. Answered and refused May 22, 1882, because the law granting certificates has been repealed. (Signed) O. M. Roberts, gov.

His Excellency O. M. Roberts, governor of Texas.

SIR: In obedience to your commission, dated Austin, June 25, 1881, authorizing me to inspect ten miles or more of the Galveston, Harrisburg & San Antonio Railway Company, I have the honor to report that on the 27 and 28 days of June I inspected and measured said road and find:

1st. The road is substantially built.

2nd. That it is fully equipped for the transportation of both passengers and freight, having 32 engines, 4 sleepers, 2 parlor, 6 mail, 186 box, 129 stock, 302 flat cars.

3rd. That it is operated by steam and constructed of steel rails weighing fifty (50) pounds to the lineal yard.

4th. The length of road inspected, commencing at the passenger depot in the city of San Antonio, ending at the north end of the bridge over the Leon, is eleven (11) miles; drove railroad spike in the end of first sill on north side of river—terminal point.

5th. There are 14 bridges, well built; shortest curve, 4°; max. grade, 42 feet to the mile.

6th. The road was completed to San Antonio in Feb'y, 1877; the excursion train (which I think was the first passenger train) was on the 19th day of Feb'y, 1877.

7th. Am informed by Maj. Cannon, chief engineer of the road, that the survey west of San Antonio commenced June 1, 1880, and commenced work Jan'y 4, 1881, west from San Antonio.

8th. So far as the manner in which the road is built is concerned, it has been constructed in accordance with its charter and
142 the general laws of the State. As to whether it has been built in time, the information contained in this report will enable the attorney general to determine.

The road is completed to the Medina river, about 18 miles. They only wanted 11 miles inspected.

San Antonio, June 29th, 1881.

(Signed) WM. P. HARDEMAN,
*Special Engineer.*

Sworn to and subscribed before me on this the 30th day of June, A. D. 1881.

(Signed) JOHN ROSENHEIMER,
*Notary Public, Bexar Co., Texas.*

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Endorsed: G., H. & San Antonio R'w'y Co. Inspection report of W. P. Hardeman of ten miles west of San Antonio. June 30, 1881.

Defendant introduced in evidence deposition of W. P. Hardeman, and showed by him that he inspected the road west from San Antonio under appointment of Governor Roberts first, and afterwards under contract with Mr. Pierce, who was then the president of the railway company.

The first inspection was made on June 27 and 28, 1881, for eleven miles; balance made not long after the repeal of the law.

The work west of San Antonio began June 4, 1881. From Leona river to a short distance west of Del Rio the road was completed before April 22, 1882, a distance of 163.6 miles. Inspected the road under contract with Pierce from Rio Grande, above El Paso 268 miles, to a point near Marathon pointed out by chief engineer, Mr. Linburg, as the point to which the road was completed April 22, 1882.

Inspected all that was completed to 22 April, 1882; don't know the exact date, but what he did inspect he found complete and in running order and in other respects according to law.

Defendant proved the following facts by deposition of W. L. McGaughey, commissioner of the general land office.

The unappropriated public domain was as follows at the dates given:

| | | |
|---|---|---|
| | Aug. 31, 1872 | 88,842,704½ |
| | Aug. 31, 1873 | 84,565,367.91 |
| 143 | January 24, 1874 | 83,783,750.91 |
| | Aug. 3, 1874 | 79,227,793.1 |

At the following round dates the unappropriated public domain, according to the then commissioner of the general land office, had ceased to exist, and the State's land liabilities exceeded its land assets, to wit:

| | | |
|---|---|---|
| Aug. 31, 1882. | Deficiency | 6,136,615 acres. |
| Aug. 31, 1884. | " | 6,745,723 " |

At date of his report, Aug. 31, 1892, excess of public domain over liabilities was estimated at 745,666 acres. Change from liability in 1883 to excess in 1892 was caused by the non-return of certificates within the constitutional limitation of five years from date of issuance, or to their location on reserved lands, rendered them void unless floated as provided by law.

An approximate estimate of the unappropriated public domain reserved from location by certificate and sale made Jan'y 12, 1893, make- the number of acres of such land 4,393,835.

Reservation was first made by the act of July 14, 1879, which took effect Oct. 9, 1879. The number of acres of the unappropriated public domain was at that time approximately 31,025,298, as per report of the commissioner of this office.

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It is agreed that in making out a transcript of this case for appeal the clerk may leave out the exhibits to the petition of plaintiff and refer to the description of the land in the judgment, which are accurately described, and having been taken from the petition are identical therewith, this agreement being made to save the expense as well as to lessen the size of the record.

It is agreed by and between the parties hereto that the foregoing contain a true statement of facts, embracing all the material testimony introduced and offered in evidence on the trial hereof.

This the 14th day of September, 1893.

C. A. CULBERSON,
*Att'y General,*
R. L. BATTS,
*Assistant, Attorney for Plaintiff.*
T. D. COBBS,
*Att'y for Defendant.*

144 Examined and approved this the 14th day of September, 1893.

WALTER GILLIS,
*Judge of the 41st Judicial District.*

(Filed Sept. 14, 1893.
C. E. WAY,
*C. D. C., B. Co., Texas.*)

*Appeal Bond.*

Filed Sept. 25, 1893.

In the District Court of Brewster County, Texas.

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY. } No. 101.

Whereas in a proceeding had in the district court of Brewster county, Texas, at its September term, 1893, cause No. 101, in which The State of Texas, as plaintiff, brought suit for the recovery of $879{,}078\frac{1}{2}{}_{0}$ acres of land, and to cancel certain certificates and patents to lands against The Galveston, Harrisburg & San Antonio Railway Company, as defendant; and whereas said cause coming on to be heard before the court at its said September term, A. D. 1893, thereof of said court, beginning on the 13th day and ending on the 14th day of September, 1893, thereof, when the court pronounced judgment in favor of the plaintiff for the land sued, adjudging that the plaintiff, The State of Texas, do have and recover of defendant, The Galveston, Harrisburg & San Antonio Railway Company, thirteen hundred and eighty-three (1,383) sections, tracts, or parcels, containing in the aggregate eight hundred

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and seventy-nine thousand and seventy-eight and one-twentieth (879,078 1/20) acres of land situated in the counties of Jeff Davis, Presidio, Brewster, Kimble, San Saba, Val Verde, Crockett, McCulloch, Pecos, Buchel, Reeves, Schleicher, Sutton, and Zavalla, in the State of Texas, and which said judgment did more specifically set out at length, in a tabulated form, the number of certificates, when issued, county where located, whether patented or unpatented, survey number, block number, and abstract number, and section of road certificates issued upon ;

And whereas in said judgment it was adjudged and decreed that each and all of said certificates be, and they are hereby, cancelled and shall hereafter be held for naught, and each and all of said patents are hereby cancelled and shall hereafter be held for naught, and the cloud cast upon the title of the State to the land located and surveyed under said certificates is hereby removed, and it is adjudged and decreed that the State of Texas has perfect and complete title to all of said land, and also recovering all costs against defendant. The table of certificates, surveys, patents, &c., so described in said judgment are too numerous and lengthy to be herein described ;

From which judgment in favor of the State of Texas the said Galveston, Harrisburg and San Antonio Railway Company have taken an appeal to the court of civil appeals of the State of Texas for the fourth supreme judicial district, in the city of San Antonio, in the county of Tarrant (Bexar) ;

And whereas the clerk of said court has fixed the probable amount of costs of the said court of civil appeals, supreme court, and the court below at the sum of four hundred ($400.00) dollars :

Now, therefore, we, the Galveston, Harrisburg & San Antonio Railway Company, as principal, and E. P. Hill and W. N. Shaw, as sureties, acknowledge ourselves bound to pay the State of Texas the sum of eight hundred and fifty ($850.00) dollars, the same being double the probable amount of costs of said clerk, conditioned that said Galveston, Harrisburg and San Antonio Railway Company shall prosecute its appeal with effect and shall pay all costs which have accrued in the court below and which may accrue in the court of civil appeals and the supreme court.

Witness our hands this the 19th day of September, A. D. 1893.

E. P. HILL.
W. N. SHAW.

THE STATE OF TEXAS, }
*County of Harris.* }

I, J. R. Waties, clerk of the district court in and for said county, do hereby certify that E. P. Hill and W. N. Shaw, whose names are subscribed to the annexed bond, are, in my opinion, good and ample security for the amount therein specified ; that they have property in said county subject to execution of a larger amount, and that if said bond was offered to me for approval the same would be accepted and approved.

POOR COPY

Witness my hand and seal of office, at Houston, Texas, this 19th day September, 1893.

[SEAL.] J. R. WATIES,
*Clerk District Court, Harris County.*

Bond taken and approved.

C. E. WAY,
*Clerk of the District Court, Brewster County, Texas.*

(Filed September 25, 1893.
C. E. WAY, *Clerk.*)

*Assignment of Errors.*

Filed Sept. 25, 1893.

In the District Court of Brewster County, Texas.

THE STATE OF TEXAS
*vs.*
THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY. } No. 101.

*Assignment of Errors.*

First assignment of error.

The court erred in not granting defendant's application for removal of said cause to the United States circuit court for the western district of Texas after defendant filed its petition and bond for removal, for that there was drawn in question the construction and effect of provisions of the Constitution of the United States and privilege and immunity claimed by defendant under the Constitution, and the record showed in said suit questions arising under the laws of Congress involving a Federal question.

Second assignment of error.

The court further erred in said cause in proceeding with the trial of said cause over the objection and protest of defendant, as
147 shown by its bill of exception No. 1, because the said record in said cause showed that the same was a suit arising under the laws of Congress and involving the power of the State to repeal laws which impaired its contract with defendant, in violation of the Constitution of the United States, all of which Federal questions appeared in defendant's pleading and petition for removal to the United States circuit court for the western district of Texas, accompanied with the proper bond, which ousted the said court of jurisdiction to try said cause, and the subsequent filing of the transcript of the record in the circuit court for the western district of Texas, at El Paso, completed a valid removal of this cause to said United States circuit court, and the said district court of Brewster county could proceed no further with it.

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Third assignment of error.

The court erred in overruling defendant's plea that there was a want of necessary parties to the suit, because it was shown in defendant's plea that defendant company did execute a mortgage on the land grant of said company from the State of Texas for large sums of money for the construction of the road; that George F. Stone was the sole surviving trustee in said mortgage; that said mortgage was duly recorded and constituted a prior valid existing lien upon the land to secure the issue of bonds floated and secured thereby; that the interest of the holders therein was of such nature any decree rendered therein adverse to defendant would effect the bonds and security and the interest to such an extent as that said trustee is a necessary party to the suit.

Fourth assignment of error.

The court erred in not sustaining defendant's general demurrer to plaintiff's petition, because the petition showed that the certificates were issued at a time when there was no constitutional inhibition against the issue thereof, and there is no allegation in the petition negativing the right of defendant to land certificates either under its charter granting the same or some special law conferring the right, the petition showing upon its face that defendant's charter was granted by special acts of the legislature and alleging in general terms that the certificates were issued to it at a time when there was no law in the State authorizing the grant of lands to railroads.

148 Fifth assignment of error.

The court erred in not rendering judgment for defendant for the land sued for, because it was shown that defendant is entitled to said lands by virtue of its said legislative charter and amendments thereto, and by virtue of the general laws applicable to railway companies, passed prior to the constitution of 1869, and defendant's rights thereunder were not affected or impaired and could not be affected or impaired by the prohibition contained in article 10 of section 6 of the constitution of 1869, the same being within the protection of section X of article 1 of the Constitution of the United States and of the 14th amendment thereof.

Sixth assignment of error.

The court erred in not rendering judgment for defendant for the land sued for, because defendant was entitled to said land by virtue of an act of the legislature passed April 27, 1870, entitled "An act supplemental to an act to incorporate the Buffalo Bayou, Brazos and Colorado Railway Company and to other special acts relative to said railroad company," and by virtue of the amendment to article 10, section 6, of the constitution of 1869, voted upon in November, 1872, and ratified by the legislature March 19, 1873, said constitutional amendment relating back as of the date of the adop-



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tion of the constitution of 1869 and removing all constitutional inhibition, if any, against legislative grants of land, in aiding railway companies, and giving full force and effect to the provisions of the said act of 1870 and prior legislation.

Seventh assignment of error.

The court erred in not rendering judgment for the lands sued for in favor of the defendant, because it is entitled to said land by force and by virtue of the provisions of section XI of the said act of 1870, supplementary to its charter, and by reason of the fact that subsequently to the amendment to the constitution voted on in November, 1872, and ratified by the legislature in 1873 the legislature proceeded to and did make numerous and specific grants of 16 sections of land to the mile of completed road to other railroads in this State, and defendant began the construction of its road, relying on the provisions of its charter that it would receive land
149 for the construction of its road thereafter in good faith, and in reliance and in recognition that the State of Texas would perform its obligation and accord to defendant equal rights with other railroads receiving lands under prior laws as well as in favor of which special grants of sixteen sections of land to the completed mile of railroad had been made.

Eighth assignment of error.

The court erred in not rendering judgment for the land sued for, because if it was not otherwise entitled thereto it was entitled to have and receive said land by force and virtue of the provisions of the act of March 15, 1876, granting to all railroads sixteen sections of land for every mile of railroad completed and in running order.

Ninth assignment of error.

The court erred in not rendering judgment in favor of defendant, because the evidence showed that defendant was entitled to said land by virtue of the provisions of said act of August 15, 1876, and defendant, relying in good faith upon the provisions of said act, constructed that portion of its road between San Antonio and El Paso, consisting of six hundred and twenty-three and fourteen-hundredths (623.14) miles, entitling it to receive from the State sixteen sections of land for each mile of said completed road, aggregating six million three hundred and eighty thousand nine hundred and fifty-three and six-tenths (6,380,953.6) acres, — which the State of Texas declined to issue to it land certificates entitling it to locate lands —, which, upon an accounting between defendant and the State, after giving defendant credit for $879{,}078\frac{1}{2}$ acres — the land sued for, if erroneously granted, the State would still be indebted to defendant company 5,483,875.55 acres, which the State wrongfully withholds from defendant.

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Tenth assignment of error.

The court further erred in not holding, the legislature of the State of Texas having, on April 22, 1882, repealed all laws in force granting land or land certificates to railroads, and the action of the executive department in declining to issue certificates by reason thereof to defendant for 623.14 miles of completed road, the said act of the legislature was in violation of the Constitution of the United States and was an impairment of the obligation of defendant's contract, and that by reason of the wrongs of the State
150 and by virtue of her prior laws defendant was entitled to more land than it had received certificates for, and therefore under the facts the State could not recover the lands sued for.

Eleventh assignment of error.

The court erred, under the facts introduced in evidence, in not holding that the State of Texas was indebted to defendant company in, to wit, 5,483,875.55 acres more of land than was sued for and in not permitting defendant to hold the lands sued for in settlement of and as a credit upon the amount of land owing, as shown upon an accounting between the State and the defendant.

Twelfth assignment of error.

The court erred, in view of the facts introduced upon the trial, in not holding, by reason of the wrongful acts of the State in repealing the law granting lands to railroads by the act of the 22 of April, 1882, the State was estopped, under her contract and by reason of her violation of the same, from a recovery of the land sued for without tendering or offering to tender to it land certificates for the amount of land earned by defendant company, together with all sums of money received from the railway company in betterments, taxes, and otherwise upon the principle that before the State could ask equity she must do equity.

Thirteenth assignment of error.

The court erred in not decreeing, on account of the completion of its track west from San Antonio to the Rio Grande river in El Paso county, a distance of 623.14 miles, in accordance with law, the said defendant was entitled to 9,970.24 certificates authorizing the said railway company to locate 640 acres of land by virtue of each certificate, amounting to 6,380,953.6 acres of land, and favorably reported upon.

Fourteenth assignment of error.

The court erred in not giving the defendant a credit for 176 land certificates or 112,640 acres of land, being for eleven miles of completed road inspected and duly reported upon June 29, 1881, by William P. Hardeman, who was appointed to inspect the same by Governor O. M. Roberts on June 25, 1881.

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Fifteenth assignment of error.

151 The court erred in not holding, by reason of the charter of said railway company, the several acts amendatory thereof, supplements thereto, and the decisions of the supreme court and the executive construction as to the right to acquire land, the executive, judicial, and legislative construction placed upon said charters and laws of the State established a rule of property and a property right; therefore the decision of the court in this case establishes a new construction of said charter and law, in violation of the Constitution of the United States, and particularly of the 10 section of the first article and the fourth article of amendments thereto.

Sixteenth assignment of error.

The court erred in not holding that the governor who appointed the engineer to inspect the road when completed and to report on the same was the sole and final judge as to whether or not the antecedent acts had been done and performed at a time when, under the law, defendant company became entitled to earn land after the amendment to the constitution in 1873, and that the said action of the said executive in respect thereto was final in the absence of allegations of fraud, and the finding of the executive department whether or not the antecedent acts had been done and performed which entitled the railway company to land certificates was final and conclusive.

Seventeenth assignment of error.

The court erred in not holding under the law and the facts that the charter of defendant company under which it constructed its road from Houston, in Harris county, to El Paso, Texas, was a valid contract, which entitled defendant company to receive sixteen sections of land per mile of completed road for all work done after the constitution of 1869 and 1870 was amended, and that defendant company having constructed that part of its road west from San Antonio while the law of August 15, 1876, was in force, and defendant company being entitled to lands which it had not received by reason of the law which repealed the grants of land to railroads, passed April 22, 1882, and not having had an excessive grant, the said defendant company should have been allowed upon equitable principles to select the lands sued for and to hold the same by way of estoppel against the State, as in cases where land for sidings *are* erroneously granted and treated as excessive, entitling railroads to selection.

152 Eighteenth assignment of error.

The court erred in its opinion and judgment upon the facts in the case, which are not in dispute, and should have rendered judgment therein for defendant.

T. D. COBBS,
*Attorney for Def't.*

(Filed September 25, 1893.
C. E. WAY, *Clerk.*)

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*Bill of Costs.*

THE STATE OF TEXAS:

THE STATE OF TEXAS, Plaintiff,
*vs.*
THE G., H. & S. A. R'Y Co., Defendant. } No. 101.

M-. —— —— to officers of court, Dr.

To costs accrued in above-entitled cause to adjournment of Sept. term, 1893.

Clerk's fees:

| | |
|---|---|
| Issuing writ, citations | $4 50 |
| 1 copy of petition, with certificate and seal | 70 00 |
| Docketing cause | 20 |
| Docketing motion | 15 |
| Filing 20 papers | 3 00 |
| Entering appearance | 30 |
| Entering 1 continuance | 20 |
| 1 order | 75 |
| Entering final judgment | 75 |
| Entering 24,700 words in excess | 37 00 |
| Taxing costs and 1 copy thereof | 25 |
| Transcript to appellate court | 164 80 |
| Appr. appeal bond | 1 50 |
| Filing 2 papers | 30 |
| Total clerk's fees | $283 70 |

Sheriff's fees:

| | |
|---|---|
| Executing writs and copy of petition (3) | $4 50 |
| Jury fees | 50 |
| Total sheriff's fees | $5 00 |
| Clerk's fees for'd | 283 70 |
| Total costs | $288 70 |

P'd by def.

153 STATE OF TEXAS, }
*County of Brewster.* }

I, C. E. Way, clerk of the district court in and for said county and State, hereby certify the above to be a correct account of the costs chargeable to the def't in above entitled and numbered suit up to this date.

Given under my hand and seal of office, at Alpine, this 16th day of October, A. D. 1893.

C. E. WAY,
*Clerk District Court, Brewster Co., Texas.*

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*Certificate to Transcript.*

THE STATE OF TEXAS, }
*County of Brewster.* }

I, C. E. Way, clerk of the district court in and for the county of Brewster and State aforesaid, hereby certify the above and foregoing 282 pages to be true transcript and copy of all the proceedings had in the cause and upon the trial of said cause No. 101, The State of Texas *vs.* The Galveston, Harrisburg & San Antonio Railway Company, as the same appears of record and on file in my office, in the court wherein said case was tried.

Witness my hand and the seal of said court, at office, in Alpine, this the 16th day of Oct., 1893.

[SEAL.] C. E. WAY,
*Clerk District Court, Brewster County, Texas.*

Endorsed: No. 385. The Galveston, Harrisburg & San Antonio R'w'y Co., appellant, *vs.* The State of Texas, appellee. From Brewster county. Applied for by T. D. Cobbs, attorney for def't, on
154 the 25th day of Sept., A. D. 1893; delivered to T. D. Cobbs on the 23rd day of October, A. D. 1893. C. E. Way, clerk district court, Brewster Co. Filed in the court of appeals, at San Antonio, the 13th day of Dec., A. D. 1893. H. E. Hildebrand, clerk.

*Certified Questions to Supreme Court.*

G., H. & S. A. R'y Co., Appellant, } No. 385. Appeal from District
*vs.* Court of Brewster County.
STATE OF TEXAS, Appellee. }

To the honorable supreme court of Texas:

In the above-entitled cause issues of law arise which this court deems advisable to present to the supreme court for adjudication, and have directed me to certify to said court the following:

The State of Texas instituted suit against appellant to cancel certain land certificates and patents issued by the State to appellant for land, amounting to 879,078 $\frac{1}{2}$ $\frac{1}{0}$ acres. It was alleged and proved that the certificates and patents were issued to the Galveston, Harrisburg & San Antonio Railway Company for a portion of its railroad constructed between the Colorado river and Guadalupe river between the time of the adoption of the constitution of 1869 and the passage of the act of August 16th, 1876 (arts. 4267 to 4277, Rev. Stats.). On July 27th, 1870, by special act of the legislature, appellant was chartered and recognized as the successor of the Buffalo Bayou, Brazos & Colorado Railway Company. After the passage of the act of August 16th, 1876, and before its repeal, in 1882, appellant constructed about 163 miles of railroad from San Antonio westward towards El Paso, for which the State refused to issue land certificates, the governor refusing the application for inspection on

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May 22, 1882, on the ground that the law granting certificates has been repealed.

Question 1. Did section 6, article 20, of the constitution of 1869 repeal all laws giving railroad companies the right to earn lands from the State by the construction of railroads; and, if so,
155 would this repeal apply as well to the right to earn lands given through charters as through general laws?

Question 2. If the above be answered in the negative, did appellant succeed to the rights of the Buffalo Bayou, Brazos & Colorado Railway Company by virtue of the special act of 1870, said Buffalo Bayou, Brazos & Colorado Railway Company being restricted by special act of February 11th, 1854, to run its line to Austin?

Question 3. If the laws as to land grants to railroads passed prior to 1869 were repealed by the constitution of this year, can appellant interpose and maintain in this suit the equitable defense that if the certificates issued for that portion of the road between the Colorado and Guadalupe rivers from 1870 to 1876 were illegally obtained that the State is in no position to ask relief sought by reason of the fact that appellant has earned certificates for said 163 miles of road?

Question 4. If the last question be affirmatively answered, would the fact that at the time the land for the 163 miles west of San Antonio was earned by appellant the public lands were exhausted affect the equities of the case?

(Signed) J. H. JAMES,
*Chief Justice Court of Civil Appeals,*
*Fourth Supreme Judicial District of Texas.*

Endorsed: No. 385. In court of civil appeals, fourth supreme judicial district of Texas, San Antonio. G., H. & S. A. R'y Co., appellant, *vs.* The State of Texas, appellee. Certified questions.

*Opinion and Order of Supreme Court on Certified Questions.*

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| GALVESTON, HARRISBURG & SAN ANTONIO R'Y CO. *vs.* THE STATE OF TEXAS. | No. 260. Certified Questions from Fourth District. |

The following questions have been certified for our determination:

156 "The State of Texas instituted suit against appellant to cancel certain land certificates and patents issued by the State to appellant for land amounting to 879,078½ acres. It was alleged and proved that the certificates and patents were issued to the Galveston, Harrisburg & San Antonio Railway Company for a portion of its railroad constructed between the Colorado river and Guadalupe river between the time of the adoption of the constitution of 1869 and the passage of the act of August 16th, 1876 (arts. 4267 to 4277, Rev. Stats.). On July 27th, 1870, by special act of the legislature appellant was chartered and recognized as the successor of the Buffalo Bayou, Brazos & Colorado Railway Company. After

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the passage of the act of Aug. 16th, 1876, and before its repeal in 1882, appellant constructed about 163 miles of railroad from San Antonio westward towards El Paso, for which the State refused to issue land certificates, the governor refusing the application for inspection on May 22, '82, on the ground that the law granting certificates had been repealed.

"Question 1. Did section 6, article 10, of the constitution of 1869 repeal all laws giving railroad companies the right to earn lands from the State by the construction of railroads; and, if so, would this repeal apply as well to the right to earn lands given through charters as through general laws?

Question 2. If the above be answered in the negative, did appellant succeed to the rights of the Buffalo Bayou, Brazos & Colorado Railway Company by virtue of the special act of 1870, said Buffalo Bayou, Brazos & Colorado Railway Company being restricted by special act of February 11th, 1854, to run its line to Austin?

Question 3. If the laws as to land grants to railroads passed prior to 1869 were repealed by the constitution of that year, can appellant interpose and maintain in this suit the equitable defense that if the certificates issued for that portion of the road between the Colorado and Guadalupe rivers from 1870 to 1876 were illegally obtained that the State is in no position to ask the relief sought by reason of the fact that appellant has earned the certificates for said 163 miles of road?

Question 4. If the last question be affirmatively answered, would the fact that at the time the land for the 163 miles west of San Antonio was earned by appellant the public lands were ex-
157 hausted affect the equities of the case?"

1. Our opinion upon the second question certified renders, we think, a decision of the first unnecessary. We therefore pass to a discussion of the second.

2. The Buffalo Bayou, Brazos & Colorado River Railroad Company was incorporated by a special act of the legislature, to which there were several amendments. Its name was changed to that of the Galveston, Harrisburg & San Antonio Railway Company, also by special act. The statement accompanying the question does not expressly advise us whether these acts were pleaded and proved upon the trial or not. However, the briefs of the parties which were filed in the court of civil appeals and which are sent up with the certificate indicate that they were. Since it is impossible for us to properly decide the questions submitted without having before us the legislation upon which the company bases its claim to the lands in controversy, we conclude that the special acts of the legislature affecting that claim were properly brought to the knowledge of the trial court, and that the questions have been certified upon that assumption. We shall therefore discuss the points presented, assuming that we are to look to all the legislation upon which the company's claim depends.

The act incorporating the Buffalo Bayou, Brazos & Colorado Railroad Company was approved February 11, 1850. By that act the company was authorized to construct and maintain a railroad

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"commencing at any suitable point on Buffalo bayou between Lynchburg and Houston, in the county of Harris, and thence running by such course and to such point at or near the Brazos river between the towns of Richmond and Washington, inclusive, as said company shall deem most suitable, with the privilege of making, owning, and maintaining such branches of said railway as they may deem expedient" (Laws 1849–'50, p. 194). No privilege of acquiring lands was granted by this act, but another special law was passed by the fourth legislature, and was approved January 27, 1853, which authorized the commissioner of the general land office to issue to the company certificates to the amount of eight sections of land for each mile of road that should be completed and put in good running order under certain restrictions not necessary
158 to mention (Special Laws 1853, p. 3). On the 30th day of January, 1854, a general statute was approved by the governor, which granted to all railroad companies which had theretofore constructed or which should thereafter construct twenty-five miles of railroad certificates to the amount of sixteen sections of land for each mile of road (Laws 1853–'4, p. 11). This act also contained conditions and restrictions which we need not detail in this connection.

The same legislature passed two special acts, one amendatory of the charter of the Buffalo Bayou, Brazos & Colorado Railroad Company and the other supplemental thereto, the first of which provided "that the 'Buffalo Bayou, Brazos & Colorado Railroad Company' shall be entitled to all the rights, privileges and benefits accruing from any general law or laws that have or may hereafter be passed by this State to encourage the constructing of railroads in the same manner and to the same extent as if the gauge of said road was the same now fixed or which may be hereafter fixed upon by this State."

By the second it was provided "that if the Buffalo Bayou, Brazos & Colorado Railroad Company shall avail themselves of the act to which this is a supplement or accept any donation of land from the State, they shall not be entitled to receive any such donation from the State under the provisions of this law, or any law that has heretofore been passed for their benefit, for any portion of their road which shall not be completed and ready for use within ten years from and after the passage of this act: Provided, that said company shall restrict themselves to the following route, viz: To an extension of their existing road to Austin in the county of Travis, crossing the Brazos river at any point between the towns of Richmond, in Fort Bend county, and Hidalgo Falls, in Washington county, and with the right of extending their road from Austin to connect with any road running north of Austin toward the Pacific ocean: Provided, such connections be made between the ninety-sixth and ninety-eighth parallels of longitude; and provided further, that said company shall have no right to build branches from their main road."

Both these acts were approved February 4, 1854. Whether or not the company ever accepted the benefits of these acts the meager



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statement of the court of civil appeals does not advise us; but since the act of July 27, 1870, which changed the name of the company to its present name under certain conditions, authorizes an
159 issue of certificates to the amount of sixteen sections per mile for such portions of the road as had been constructed before the war, but not within the time provided by the act of January 30, 1854, we infer that it did so accept.

During the period of the civil war two laws were passed which had the effect to relieve the existing railroad companies from the limitations as to time embraced in the act of 1854 until two years after the close of the war; and on the 13th of November, 1866, an act was approved which contained the following section: "Be it enacted by the legislature of the State of Texas that the grant of sixteen sections of land to the mile to railroad companies heretofore or hereafter constructing railroads in Texas shall be extended, under the same restrictions and limitations heretofore provided by law, for ten years after the passage of this act."

The special act of July 27, 1870, recognized the present company as the purchaser of the franchises, rights, and property of the original company, which had been "sold out," and as its successor, and changed the name to that of the Galveston, Harrisburg & San Antonio Railway Company and amended its charter in important particulars. We quote so much of that law as is deemed necessary for the purposes of this opinion: "Whereas on the seventh July, 1868, 'the road-bed, track, franchises, and chartered rights and privileges' of the Buffalo Bayou, Brazos & Colorado Railway Company were sold on executions issued on judgments against said company, and on the 24th January, 1870, the railroad of said company from Harrisburg to Alleytown and its franchise, rights, and other property appertaining thereto were sold under the provisions of a mortgage or deed of trust made by said company on the first November, 1860, all of which appears of record; and

"Whereas the act of December 19, 1857, 'supplementary to and amendatory of an act to regulate railroad companies,' provides that the purchasers at such sales and their associates 'shall be entitled to have and exercise all the powers, privileges, and franchises granted to the company sold out' by its charter or by virtue of the general laws of this State, and 'shall be deemed and taken to be the true owners of said charter and corporators under the same, and vested with all the powers, rights, privileges, and benefits thereof;' and
160 "Whereas the purchasers at said sales and their associates have formed a new company under said old name and have expended large sums of money in the reconstruction of said railroad, in the purchase and completion of the Columbus Tap railroad and the bridge of the Brazos Iron Bridge Company over the Brazos river at Richmond; and whereas said new company desires to be distinguished by name from said 'sold-out' company, to consolidate its property, and to extend said line of railroad, therefore:

"SECTION 1. Be it enacted by the legislature of the State of Texas,

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That the new company heretofore known as the Buffalo Bayou, Brazos & Colorado Railway Company, referred to in the preamble of this act, shall be here*tofore* known by the corporate name of 'the Galveston, Harrisburg & San Antonio Railway Company,' and may alter its seal to conform to its name; provided that said new company shall be liable to the State of Texas for the debt of said 'sold-out' company, for loans made to the latter company from the special school fund, in the same manner and to the same extent as said 'sold-out' company was liable; and that said change of name shall in no respect impair or affect said liability or the existing lien or mortgage of the State upon the railroad of said company as security for said loans."

But the constitution which was in force at the time the last-named act was passed contained this provision: "The legislature shall not hereafter grant lands to any person or persons, nor shall any certificates for land be sold at the land office, except to actual settlers upon the same, and in lots not exceeding one hundred and sixty acres." (Cons. 1869, art. 10, sec. 6.)

In so far as the determination of the question under consideration is concerned we think it may be conceded for the purposes of the argument that the company acquired a right to sixteen sections of land per mile of constructed railroad under the general law of 1854 and the special acts above recited amendatory of its charter, and that this rignt was preserved by the general law of 1866. It may also be conceded for the same purpose that section 6 of article 10 of the constitution of 1869 was intended to have purely a prospective effect and did not operate to repeal either the law of 1854 or that of 1866 as to railroad companies then in existence, for if it should be held that the privileges extended by the previous laws to existing companies *was* not affected by the section the question arises
161 whether after that constitution took effect and act of the legislature which authorized the company to change its former route and to construct a different line of road would carry with it the right to acquire land by the construction of the new line. It must be borne in mind that when the constitution of 1869 was adopted no general law was in force for the incorporation of railroad companies. The charters of all the other existing companies had been granted by special acts of the legislature, all of which defined with some degree of certainty the line of the road to be constructed. We construe the general law of January 30, 1854, as applying only to companies then chartered. (See Quinlan *vs.* H. & T. C. R'y Co., this day decided.) It is clear that it was intended to grant lands to the companies for the construction of railroads which their charters authorized them to build. It may be conceded that, so long as the general law which granted the privileges of acquiring lands remained in force, and so long as no constitutional inhibition stood in the way, legislative authority to a company to change the line to be constructed should be construed to carry with it the privilege of earning lands for the construction of the new line. At all events, it is clear, we think, that the act of February 4, 1854, supplemental to the act of the same date, which extended the privileges of the gen-

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eral law of January 30, 1854, to the company, restricted those privileges to the line to Austin and to the extension of that line. The proviso "that said company shall restrict themselves to the following route, viz., to an extension of their existing road to Austin," admits of no other construction. The purpose and effect of the first section of the act of November 13, 1866, was merely to give to the companies to which it applied ten years from the date of the act within which to comply with the terms of their charters and the general laws with respect to land grants. Let us admit, then, for the purposes of the argument, that in 1970, when the name of the company was changed and when it was granted authority to alter the line to be constructed, that it had the right to acquire lands by the construction of its line as fixed by the supplemental act of February 4, 1854, we are still confronted with the question, did the legislature have the power, had it so intended, so to authorize a change of its line and at the same time to carry with the change of line the privilege of earning lands for the construction of a different road? Section 6 of article 10 of the consti-
162 tution then in force prohibited the legislature from granting lands thereafter for the construction of a railroad. That it could authorize a change of route there can be no question; but there is a grave question whether or not it could, under the constitution then existing, transfer a privilege of acquiring lands by the construction of a well-defined line of railroad from the route so defined to another not contained in the previous grant. The company before the passage of the act of 1870 had no right to acquire lands by the building of a railroad to San Antonio. To complete that right a new grant was requisite, but at that time the legislature was prohibited in the broadest terms from making any grant whatever. It matters not that the transaction may be looked upon as being somewhat in the nature of an exchange, and that the building of the new line may have involved a grant of no more, or even of less, land than may have been acquired by the construction of the old line. It involved a grant of land as to the new line, and that the legislature had no right to make. Let us state the proposition in another form: If it were the right of the company under the existing laws to acquire lands by doing a specific thing, the legislature, having no power under the constitution to make any grant of lands, could not confer upon it the right to earn lands by doing another—a different—thing.

So far we have discussed the question as if in passing the act of 1870 the legislature had intended to transfer the right of the company as to the lands to be acquired from the old to the new line; but we find nothing in the act which manifests such an intention. On the contrary, the twelfth section of the act, as above quoted, indicates that it was not the purpose in any manner to extend the existing rights of the company with reference to the acquisition of lands from the State.

It is to be noted that the 3rd section of the act of 1870 not only authorized the company to change its route so as to run to San Antonio instead of Austin, but in addition thereto reserved to it

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the right to build upon the route formerly designated by the sold-out company. It is evident, therefore, that to concede to the company the right to earn lands by the construction of the new line involves a new and additional grant—a grant which the legislature under the constitution of 1869 could have made neither expressly nor by implication.

163 This question was before this court at a former term in a suit between the same parties, and the point was there resolved as we resolve it now (G., H. & S. A. R'y Co. *vs.* State, 81 Tex., 572); but it is urgently insisted that the question was not involved in that case. Without conceding the correctness of this contention, in view of the magnitude of the interests involved in the present case, we have gone over the question anew and, without reposing upon the former decision, have arrived at the same result. We are therefore of the opinion that the Galveston, Harrisburg & San Antonio Railway Company did not by virtue of the act of July 27th, 1870, acquire the right to earn lands by the construction of its line to San Antonio.

3. Referring to the third question certified by the court of civil appeals, we are of the opinion that it is no defense to an action of the State for the recovery of the lands involved in this suit that the company may have been entitled to certificates for the 163 miles of additional road constructed under the law of 1876. It acquired no title, either legal or equitable, to the lands in controversy by causing them to be surveyed and patented under the certificates granted for the San Antonio extension. To make its right to lands earned by the additional construction effectual for any purpose it must have procured its certificates and located them upon some portion of the public domain not reserved from the location of such certificates. Our complicated and ever-varying laws in regard to the appropriation of the public domain have probably given rise to more questions affecting the location of lands than have ever arisen in any other jurisdiction, and yet we know of no case in this court in which it has ever been ruled that the claimant of land against the State under a location made by virtue of a void certificate has any equity in the premises by reason of being the possessor of another valid certificate.

4. The third question not having been answered in the affirmative, the fourth does not arise.

R. R. GAINES,
*Chief Justice.*

Opinion delivered March 19, 1896.

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164 CLERK'S OFFICE, SUPREME COURT.

I, Chas. S. Morse, clerk of the supreme court of Texas, hereby certify that the above and foregoing eight pages contain a true and correct copy of the opinion of the supreme court of Texas in cause No. 260, entitled Galveston, Harrisburg & San Antonio Railway Company *vs.* The State of Texas, on questions certified to this court from the court of civil appeals of the fourth supreme judicial district.

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Witness my hand and the seal of said court this the 17th day of April, A. D. 1896.

CHAS. S. MORSE, *Clerk*,
[SEAL.] By F. T. CONNERLY, *Deputy*.

MARCH 19TH, 1895.

GALVESTON, HARRISBURG & SAN ANTONIA RAILWAY COMPANY *vs.* STATE OF TEXAS. } No. 260. Certified Questions from Fourth District.

Opinion delivered by Chief Justice Gaines.

"It is ordered by the court that a copy of the opinion herein delivered be certified to the court of civil appeals for the fourth supreme judicial district, and that said cause be therein proceeded with in accordance with said opinion."

* * * * * * *

I, Charles S. Morse, clerk of the supreme court of Texas, hereby certify that the above is a true and correct copy of the order made by the supreme court in the above styled and numbered cause.

Witness my hand and the seal of said court this the 17th day of April, A. D. 1896.

CHAS. S. MORSE, *Clerk*,
[SEAL.] By F. T. CONNERLY, *Deputy*.

(A motion for a rehearing made by the appellant, The Galveston, Harrisburg & San Antonio Railway Company, was overruled
165 by the supreme court on the 16th day of April without written opinion.)

Endorsed: No. 260. Galveston, Harrisburg & San Antonio Railway Company *vs.* State of Texas. Certified copy of opinion and order of the supreme court. Filed in the court of civil appeals, at San Antonio, Texas, Apr. 18, 1896. H. E. Hildebrand, clerk.

*Bill of Costs on Certified Questions.*

CLERK'S OFFICE, SUPREME COURT.

G., H. & S. A. R'Y CO. *vs.* STATE OF TEXAS. } No. 260. Brewster Co.

Certified copy bill of costs in supreme court.

| | |
|---|---|
| Filing record | 50 |
| Docketing cause | 50 |
| Entering appearance | 1 00 |
| Filing briefs & arg'ts (19) | 5 70 |
| Filing 1 extra paper | 30 |
| Filing and entering 1 motion | 55 |

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| Entering judgment | 1 00 |
| Taxing costs | 50 |
| Certified copy of bill of costs | 1 00 |
| Recording opinion | 6 50 |
| Certified copy of opinion | 6 50 |
| Orders | 1 50 |
| 2 notices to counsel | 2 00 |
| Cert. copy of judgment to C. C. A. | 1 00 |
| Total | $28 55 |

I, Charles S. Morse, clerk of the supreme court of Texas, hereby certify that the above copy of the original bill of costs is true and correct.

Witness my hand and the seal of said court, at Austin, [SEAL.] this the 17th day of April, 1896.

CHAS. S. MORSE, *Clerk.*

Endorsed: No. 260. Certified copy bill of costs in supreme court, Austin. G., H. & S. A. R'y Co. *vs.* State of Texas. $28.55. Filed in the court of civil appeals, at San Antonio, Texas, Apr. 18, 1896. H. E. Hildebrand, clerk.

166 *Conclusions of Fact.*

THE G., H. & S. A. R'Y CO., Appellant, *vs.* THE STATE OF TEXAS, Appellee. } No. 385. Appeal from Brewster County.

Conclusions of fact.

It is agreed that the defendant company received from the State and located the certificates described in plaintiff's petition, and that said petition contained a true statement of the number of certificates issued, the number of each certificate, the number of acres, the date when certificates were issued, the counties in which located, the section of road for which said certificates issued, as well as the number of miles of main track and sidings in each section, and whether the same has been patented and the date of the patents.

It is further agreed that the defendant railway company begun the construction of the first section of its road, that part of its road for which certificates in this suit were issued, at the point of junction with the old line of the Buffalo Bayou, Brazos and Colorado railroad, at a distance of 493 feet west of the west approach to the bridge over the Colorado river, and ending at the west end of west approach over the West Navidad river, subsequent to July 27, 1870, and completed the same December 19, 1873.

That the second section of defendant company's road, from the "western side of the western approach to the bridge over the West Navidad river and ending at the center of a red sandstone culvert, the first one east of Buck's branch," was constructed and completed between July 27, 1870, and June 25, 1874

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That the third section of defendant company's road, from a "red sandstone culvert, the first one east of Buck's branch, and ending at the turn-table at Luling," was constructed and completed between July 27, 1870, and January 16, 1875.

That the fourth section of defendant company's road, between "the station-house at Luling and ending at the west ending of the siding at Kingsbury," was constructed and completed between July 27, 1870, and July 12, 1875.

That the fifth section of the defendant company's road, between
"the east pier of the Guadalupe bridge, thence eastward, end-
167 ing at a point opposite the depot door at Kingsbury or the west end of the siding where the last inspection terminated," was constructed and completed between July 27, 1870, and October 27, 1876.

That that portion of the road of defendant company between the Colorado river and San Antonio was completed to San Antonio Feb. 13, 1877.

That said railroad was thereafter constructed and put in running order and operated from said beginning, at the bridge over the Guadalupe river, to El Paso, in El Paso county, being a distance of — miles.

It is further agreed that the charters and special laws relating to defendant's company and relating to grants of land to railroad companies may be used on the trial in evidence and considered without the necessity of incorporating the same in the statement of facts, as well as all special laws incorporating railroads and other laws, general and special, granting lands and land certificates for works of national improvements.

Any other pertinent fact may be introduced by either party on trial.

There are now remaining and belonging to the State of Texas — acres of public domain reserved since 1879 from location by certificates.

Defendant paid taxes on land- sued for continuously since they were located up to the present time, which was received by the State of Texas and by it used as other taxes are used by the State.

Defendant paid all fees for locating and surveying the said lands sued for as well as the same number of alternate sections, known as the even-numbered, for the public free-school fund and have paid all surveying fees and all fees to the commissioner of the general land office in respect thereto and all sums of money necessary for its protection and in the way of betterments for the preservation of the same, etc.

The said certificates for land described in plaintiff'- petition were issued to it after the said railway company had completed and after the governor had appointed an engineer to examine the same and report; which engineer did examine the same and report to the governor the condition of said road; and thereupon the governor approved the report; and thereupon the land commissioner issued
certificates to said railway company, signed by the commis-
168 sioner of the general land office, calling for main line and sidings, not separating the sidings from the main line.

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At the time of the act of Jan'y 30, 1854, became a law E. M. Pease was governor of the State of Texas. It was by his approval as such governor that the bill passed the legislature and became a law.

The first certificates that were issued under the act of Jan'y 30, 1854, were authorized and directed to be made by the said E. M. Pease, whose term of office had not then expired.

These certificates were issued upon a report made by Tipton Walker, engineer, appointed by Governor Pease in pursuance of the provisions of said act, which report bears date of March 24, 1856, and is now on file in the proper department of the State in the capitol at Austin.

In this report said Tipton Walker specially states that the railway company to whom said certificates were issued had completed of its main line a certain number of miles, and also states the length of sidings that had been constructed.

Upon receiving this report the said E. M. Pease, as governor as aforesaid, in a letter addressed to Hon. Stephen Crosby, commissioner of the general land office, under date of March 31, 1856, advised said Crosby, as such commissioner, that the president of the railway company making application for said certificates had notified him (the governor) that said railway company had completed and put in running order a section of twenty-five miles and more of its road; that, there being no State engineer, he had appointed, under the act of Jan'y 30, 1854, Tipton Walker, engineer, to examine said section of road, and that he then enclosed a copy of said report under oath, with the affidavit accompanying the same from the said engineer, that said engineer reported that said section, containing (with the necessary turnouts) 32.12 miles, is constructed in accordance with the provisions of its charter and the general laws of the State in force regulating railroads.

The various engineers appointed by the different governors to inspect railways as the same were constructed in their respective reports of inspection to the respective governors stated the number of miles and feet of main track, the number of miles or feet of bridges, culvert, and tressels, the number of depots, cars, engines, weight of iron, and width and character of track and grade. The action of the respective governors (except Governor Roberts)
69 on said reports *were* usually in the following words: "Reports examined and approved," upon which reports and action of the respective governors the commissioner of the general land office issued to the respective companies the certificates for main track and sidings.

During the administration of Governor Roberts the reports of the engineers were in substance and form of those made to other governors, but he approved for only the number of miles of main track stated in the reports.

In one instance during the administration of Governor Davis he approved one report for sidings exclusively, for which certificates were issued in the usual amount per mile. This was also done in one instance by Governor Hubbard, for which certificates issued. On March 13, 1877, Governor Hubbard made the following endorse-



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ment on one of the reports: "This report of Inspector Gray examined and approved for thirty miles of main track and sidings as being made, graded, and in all respects complying with the law." In many cases patents were issued on said certificates for both main line and turnouts, and in some cases did not separate the quantity of land for main line from the quantity of land for sidings.

The said railway company had expended large sums of money as aforesaid in the work of surveying such lands, locating and correcting the same; also in preserving said railway company and enabling it to perform the duties incumbent upon it as a common carrier, and has paid large sums of money by way of taxes to the State of Texas.

Said lands have been surveyed in all respects as the law requirelands to be surveyed for railway companies, by virtue of the donations or grants of land, into tracts of six hundred and forty acres, where the same could be done, surveying an equal amount for the benefit of the school fund, the field-notes of which were recorded and are now in the proper surveyor's office; that maps, plats, and sketches thereof were duly made, which, with the field-notes and certificates, have been duly returned to the general land office of the State of Texas within the time required by law and have remained on file in the land office ever since; that the same were duly platted upon the maps of the general land office of the State of Texas and suitably marked as the lands of the railway company. The maps of the same are in use of the land office of the State of Texas now. The odd sections recognized as said railway company's lands and
170 maps thereof have been furnished to the county surveyors in all the counties where the said lands are situated and are now in their possession and control, showing said lands platted thereon, and recognized by the State of Texas, through the officers, as the lands granted to said defendant railway company.

The following commissioners have issued land certificates for sidings as well as for main line, to wit, Stevens, Crosby, White, Kuechler, and Groos.

During the administration of the following governors land certificates were issued for sidings and main line to the railway companies named as follows:

Gov. E. M. Pease:

To the Buffalo Bayou, Brazos & Colorado R. R.

Gov. H. Runnels:

To the Southern Pacific R. R. Co.
To the San Antonio & Mexican R. R. Co.

Gov. Sam. Houston:

To the Southern Pacific Railroad Co.

Gov. Edward Clark:

To the Washington Co. R. R. Co.
To the B. B., B. & C. R. R. Co.

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Gov. J. W. Throckmorton:

To the T. & N. O. R. R. Co.
To the Washington Co. R. R. Co.

Gov. E. J. Davis:

To the G., H. & S. A. R. R. Co.
To the Galveston, Houston & Henderson R. R. Co.
To the Indianola R. R. Co.
To the Texas Pacific Railroad Co.
To the Houston & Great Northern R. R. Co.
To the Houston & Texas Central Railway Co.
To the Waco & Northwestern R'y Co.

Gov. Richard Coke:

To the Texas & Pacific Railroad Co.
To the Houston & Great Northern R. R. Co.
To the Gulf, Colorado & Santa Fe R'y Co.
To the Galveston, Harrisburg & San Antonio R. R. Co.

Gov. R. Hubbard:

To the Texas Pacific R. R. Co.
171 To the Houston & Great Northern R'y.
To the Gulf, Colorado & Santa Fe.
To the Denison & Southeastern.
To the East Line & Red River R. R.
To the Tyler Tap R. R.
To the Houston, East & West Texas R. R.
To the Georgetown.
To the Dallas & Wichita.
To the Galveston, Harrisburg & San Antonio R. R.
To the Texas Western.

The lands were surveyed and located and certificates issued as shown by the statement in plaintiff's petition.

The defendant company completed its line of railway from San Antonio to El Paso and to Rio Grande river, in El Paso county, beginning on the — day of ——, a distance of 623.14 miles, and ending on the — day of ——, 18—, for which it never received any certificates for land. H. B. Andrews, as vice-president of the Galveston, Harrisburg & San Antonio Railway Company, made application to His Excellency O. M. Roberts, governor of the State of Texas, to appoint a civil engineer to examine and inspect said portion of completed line, which application was refused by Gov. Roberts.

The act legalizing the organization of the Buffalo Bayou, Brazos and Colorado R. R. Co. was approved September 4, 1850.

The Southern Pacific Railroad Company was chartered August 16, 1856. The San Antonio and Mexican Gulf Railway Company was chartered Sept. 5, 1850. The Washington County Railroad Company was incorporated February 2, 1856.

The Texas and New Orleans Railroad Company was incorporated prior to Feb'y 7, 1861.

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The Galveston, Houston and Henderson Railroad Company was incorporated February 7, 1853.

The Indianola Railway Company was incorporated Jan'y 21, 1858.

The Texas & Pacific Railway Company was not chartered by the State of Texas.

The Houston & Texas Central Railway Company was incorporated September 1, 1856.

The Waco Tap Railroad Company was incorporated in 1856.

By act of May 24, 1873, the Waco and Northwestern Rail-
172 road Company was merged with the Houston & Texas Central Railway Company.

The Gulf, Colorado and Santa Fe Railroad Company was incorporated May 28, 1873.

The Denison and Southeastern Railroad Company was chartered July 27, 1877.

The East Line and Red River Railroad Company was incorporated by an act of March 22, 1871.

The Tyler Tap Railroad Company was incorporated by act of December 1, 1871.

The Houston, East and West Texas Railway Company was incorporated by act of March 11, 1875.

The Georgetown Railroad Company was chartered May 31, 1878.

The Dallas and Wichita Railroad Company was incorporated December 2, 1871.

The Texas Western Railroad Company was incorporated February 16, 1852.

The Columbus Tap Railroad Company was incorporated Febr'y 2, 1860.

The Gulf, Western Texas and Pacific Railroad Company consolidated with the Indianola and San Antonio Railroad Company Aug. 4, 1870.

The Galveston, Brazos, Colorado, N. G. railroad was incorporated Feb'y 2, 1875.

The defendant company located the land sued for by virtue of 315 certificates out of 415 issued on the first section of that portion of its road from the Colorado river to the Guadalupe bridge; the 407 certificates of the 433 issued on the second section of its road; the 308 certificates issued on the third section of its road; 91 certificates of the 192 issued on the fourth section of its road, and the 262 certificates issued on the fifth section of its road, said sections of road being as heretofore referred to in this agreement.

That the railroad company long prior to the institution of this suit executed mortgages for large amounts of money to secure issue of bonds. The mortgages were secured upon the following property: The line of road and its franchise and on all the lands, locations, surveys, land scrip, and rights to lands that have been or may be hereafter acquired by said company for the construction of its railroad from Harrisburg to San Antonio by virtue of any general or special acts of the legislature of the State of Texas making donations of lands.

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Some of said mortgages are each for the sum of $20,000.00 per mile of the road. One of said mortgages is the mortgage
173 mentioned in defendant's plea in which George F. Stone is the sole surviving trustee, and it shall not be necessary to further describe the said mortgages. The said mortgages and bonds which they secure were issued and floated on the money market and money obtained for the purpose of building and constructing the railroad of defendant company and were duly recorded in the counties where lands are situated.

The railway company treated and understood, and also the holders of said mortgages so understood, that the lands sued for were embraced in and secured by said mortgages, but this point is not conceded by plaintiff.

The State refused to issue and grant any certificates to the defendant company for any part of the road constructed west from San Antonio to El Paso, which is a distance of 623.14 miles of road. The construction of that part of the railroad began west at Columbus in March, 1873, and was completed to the West Navidad about Jan'y 1, 1874.

The road was opened for business on the following dates: Weimar, Nov. 16, 1873; Schulenburg, Dec. 1, 1873; Flatonia, April 16, 1874; Waelder, July 1, 1874; Luling, Sept. 1, 1874; Kingsbury, July 23, 1875; Seguin, August 10, 1875; Guadalupe river, August 10, 1876.

Construction west of San Antonio began in May, 1881. The first grading at Rio Grande river near El Paso was done on March 28, 1881. The construction of the road was finished from El Paso eastward Dec. 27, 1882. The road was opened for business west from San Antonio and El Paso at La Coste, 25 miles, Oct., 1881; at Hondo, 50 miles, 1881; at Sabinal, 71 miles, Oct. 24, 1881; at Uvalde, 93 miles, Nov. 21, 1881; at Eagle Pass junction, 132 miles, March 6, 1882; at Del Rio, 170 miles, June 23, 1882. Construction west from San Antonio and east from El Paso met in January, 1883.

W. P. Hardeman inspected the road west from San Antonio under appointment of Governor Roberts first and afterwards under contract with Mr. Pierce, who was then the president of the railway company.

The first inspection was made on June 27 and 28, 1881, for eleven miles; balance made not long after the repeal of the law.

The work west of San Antonio began June 4, 1881. From Leona river to a short distance west of Del Rio the road was completed before April 22, 1882, a distance of $163\frac{6}{10}$ miles. Inspected the road under contract with Pierce from Rio Grande above
174 El Paso, 268 miles, to a point near Marathon, pointed out by chief engineer, Mr. Linburg, as the point to which the road was completed April 22, 1892.

Inspected all that was completed to 22 April, 1882; don't know the exact date; but what he did inspect he found complete and in running order and in other respects according to law.

The unappropriated public domain was as follows at the dates given:

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|---|---|
| Aug. 31, 1872 | 88,842,704½ |
| Aug. 31, 1873 | 84,565,367.91 |
| January 24, 1874 | 83,783,750.91 |
| Aug. 3, 1874 | 79,227,793.1 |

At the following round dates the unappropriated public domain, according to the then commissioner of the general land office, had ceased to exist and the State's land liabilities exceeded its land assets, to wit:

| | | |
|---|---|---|
| Aug. 31, 1882. | Deficiency | 6,136,615 acres. |
| Aug. 31, 1884. | " | 6,745,723 " |

At date of land commissioner's report, Aug. 31, 1892, excess of public domain over liabilities was estimated at 745,666 acres. Change from liability in 1883 to excess in 1892 was caused by the non-return of certificates within the constitutional limitation of five years from date of issuance or to their location on reserved lands rendered them void unless floated as provided by law.

An approximate estimate of the unappropriated public domain reserved from location by certificate and sale made Jan'y 12, 1893, make the number of acres of such land 4,393,835.

Reservation was first made by the act of July 14, 1879, which took effect Oct. 9, 1879. The number of acres of the unappropriated public domain was at that time, approximately, 31,025,298, as per report of the commissioner of this office.

(Signed) W. S. FLY,
*Associate Justice.*

Endorsed: No. 385. In court of civil appeals, fourth supreme judicial district of Texas, San Antonio. G., H. & S. A. R'y Co., appellant, *vs.* State of Texas, appellee. Conclusions of fact. Filed in the court of civil appeals, at San Antonio, Texas, Apr. 29, 1896. H. E. Hildebrand, clerk.

175 *Opinion.*

GALVESTON, HARRISBURG & SAN ANTONIO R'W'Y CO., Appellant, *vs.* THE STATE OF TEXAS, Appellee. | No. 385. Appeal from Brewster Co.

This suit was instituted on the 5th day of January, 1893, by C. A. Culberson, attorney general of the State of Texas, in behalf of the State, to recover 1,383 tracts of land, containing in the aggregate eight hundred and seventy-nine thousand and seventy acres of land situated in the counties of Jeff Davis, Presidio, Brewster, Kimble, San Saba, Val Verde, Crockett, McCulloch, Pecos, Buchel, Reeves, Schleicher, Sutton, and Zavalla, and to cancel patents issued to appellant for said land. After setting out the land sued for and the locating of certificates on it by appellant, it was alleged that the Buffalo Bayou, Brazos and Colorado Railroad Company was chartered by a special act of the legislature of date February 11, 1850;

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that by that special act said company and appellant as its successor was authorized only to build an extension of its railroad to the city of Austin and to a line extending north from Austin to connect with some road running north of Austin to the Pacific ocean; that said railroad companies were not entitled to receive any lands for the construction of any road from Columbus to San Antonio and westward for which appellant has received land certificates; that by the special act of the legislature of the State of Texas approved July 27, 1870, the name of the Buffalo Bayou, Brazos & Colorado Railroad Company was changed to the Galveston, Harrisburg & San Antonio Railway Company, and by its provisions appellant was for the first time given authority to extend its road from Columbus to San Antonio, for which the land certificates in question were issued, and that at the time of their issuance the constitution of 1869-'70 forbade the legislature to grant lands to railway companies for the construction of their roads; that there were issued to appellant at different times 1,610 certificates by the commissioner of the general land office of Texas for a line of road from Columbus to the east pier of the bridge across the Guadalupe river, all of which road was constructed between July 27, 1870, and October 27, 1876; "that at no time during said period was there any law in existence in this State authorizing the issuance of land certificates to the de-
176 fendant company for main track or sidings, and especially does the plaintiff aver and represent that at no time during said period was there any law in existence authorizing the issuance of certificates to said company for the construction of its line of road between Columbus and the Guadalupe bridge." It was therefore charged that the certificates were unlawfully issued and were null and void.

On the 6th day of March, 1893, appellant filed a petition for removal of the cause to the circuit court of the United States, which was overruled.

On March 13, 1893, appellant filed its answer, setting up that it had in 1880 mortgaged the land in controversy to Andrew Pierce and George Stone; that Pierce was dead and Stone was the sole surviving trustee, and that Stone was a necessary party to the suit. Appellant also pleaded general denial and specially pleaded all its charters and all laws, general and special, of the State of Texas by which it became entitled to the lands claimed by it.

Defendant further answered, among other things, that it was provided in section 11 (of the charter granted in 1870) that said new company shall be entitled to the same or similar rights and relief (except State aid in bonds or endorsement or guarantee of interest on bonds) granted to or provided for any other railroad company by the legislature, and upon the same or similar terms and conditions as far as such rights and relief are in their character applicable to said new company or its line or lines of railroad.

Defendant pleaded specially, as aforesaid, its title at length, and, further, the amendment of the constitution of 1873, and pleaded, further, that upon the adoption of the said amendment to the constitution the legislature of Texas proceeded to grant to and provide

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for a large number of railroads rights to sixteen sections of land to the mile of completed road; and defendant thereupon proceeded to construct its road from Columbus to the Guadalupe river, and defendant constructed the same, relying in good faith upon the promise, agreement, and undertaking of the State, as fully set forth in said section 11 of its charter of 1870, and defendant from time to time received the lands sued for as said construction proceeded.

On the 16th day of August, 1876, the legislature passed a general law granting sixteen sections of land per mile to railroads, and on the 22nd day of April, 1882, the legislature repealed all
177 laws granting lands to railroads.

Defendant also claimed that it was entitled to the lands for the following reasons, to wit:

First. By reason of the legislation, charters and amendments thereto, and the general laws applicable to railroad companies passed prior to the constitution of 1869, which secured its rights to the land and which could not be impaired by any subsequent legislation without violating the provision of the Constitution of the United States.

Second. Because it was entitled to the land by virtue of the act of the legislature passed July 22, 1870, and by virtue of the amendment to article 10, section 6, to the constitution of 1869.

Third. It is entitled to said land by virtue of the provisions of section 11 of said act of 1870 supplementary to its charter, and by reason of the fact that subsequent to the amendment to the constitution made in 1873 the legislature proceeded to and did make numerous and specific grants of sixteen sections of land per mile of completed road to other roads in this State; and defendant, relying upon the provisions of its charter, commenced and continued the construction of its road in good faith and in reliance upon the recognition and performance by the plaintiff of its obligation to accord to defendant equal rights with other roads in favor of which special land grants of sixteen sections of land to the mile of completed road had been made.

Fourth. Because if it was not otherwise entitled thereto it was entitled to have lands by force and virtue of the act passed August 15, 1876, and by reason of the fact, on the faith and in reliance upon the provision of said act, the defendant constructed that portion of its road between San Antonio and El Paso, amounting to 623.14 miles, which entitled it to receive from the State sixteen sections of land for each mile, amounting in the aggregate to 6,380,953.6 acres of land, which was constructed subsequent to August 15, 1876.

Defendant further averred by reason of the action of the executive officers of the State in construing the law, appointing engineers to inspect the road, the report of such engineers, the action of the governor thereon, the issuance of certificates, the survey and location of the land, maps and plats thereof filed in the office of the commissioner of the general land office, and also in the surveyor's office, and the State officers fully recognize them to be the lands of the G., H. & S. A. R'y Co. for a period of many years; the
178 decisions of the highest court in the land establishing the rule of property, the payment of large sums of money by

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defendant in surveying and locating the lands, the payment of taxes, patents, and betterments which the State has made no provision to pay or to return to defendant; and during a period of more than ten years the State of Texas and her officials have stood by and allowed the assertion of title to said lands by the railway company, permitting the lands to be mortgaged and money obtained in the money markets of the world; the State is estopped from the recovery of the lands in this cause, and that the same is a stale demand.

Defendant also prayed for affirmative relief and, if within the power of the court, for judgment for the said land certificates which have not been issued, requiring the same to be issued to defendants, and praying the court for such affirmative relief in the premises as it was entitled to.

The cause was tried on September 13, 1893, and judgment was rendered in favor of the State of Texas for all the lands sued for. Finding that the statement of facts is as much condensed as we could make it in justice to the parties, we have with a few emendations adopted it as our conclusions of fact.

The first and second assignments presenting the error in the refusal to remove this cause from the State to the Federal court cannot be sustained. The points therein presented have been decided by the Supreme Court of the United States adversely to the contention of appellant. State of Tennessee *v.* Bank of Commerce, 152 U. S., 454. In that case it was held that "a cause cannot be removed from a State court simply because in the progress of the litigation it may become necessary to give a construction to the Constitution or laws of the United States." The trustee in the mortgage, George F. Stone, was not a necessary party to this suit. Mortgagees are not necessary parties to actions of trespass to try title brought against mortgagors. If the State was willing to run the risk of another lawsuit with the mortgagee, it does not concern appellant. Its title was not strengthened or weakened by the existence of the mortgage.

We are of the opinion that the illegal acts of the land commissioner in granting the land certificates and of the governor in granting patents to the land do not estop the State of Texas from recovering the lands sued for. The State cannot be estopped by the acts of any of its officers done in the exercise of a power
179 not conferred upon them any more than it can be bound by contracts made by its officers which they were not empowered to make. The powers of all officers are defined and conferred by law, and of these all persons who deal with them must take notice. Acts done in excess of the powers conferred are not official acts. Day Land & Cattle Co. *v.* State of Texas, 68 Tex., 526.

The questions raised by the remaining assignments of errors have been certified by this court to the supreme court and have been answered adversely to appellant. G., H. & S. A. R'y Co. *v.* The State of Texas, opinion delivered March 19, 1896.

In that opinion it was held that appellant did not succeed to the rights that would have accrued to the Buffalo Bayou, Brazos and Colorado railroad had it been extended, as provided by its charter,



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to Austin, and that it was no defense to the action for the recovery of the lands involved in this suit that the company may have been entitled to certificates for the 163 miles of railroad constructed west of San Antonio under the law of 1876.

The judgment is affirmed.

(Signed) W. S. FLY,
*Associate Justice.*

Endorsed: No. 385. In court of civil appeals, fourth supreme judicial district of Texas, San Antonio. G., H. & S. A. R'y Co., appellant, *vs.* State of Texas, appellee. Opinion by W. S. Fly, associate justice. Filed in the court of civil appeals, at San Antonio, Texas, Apr. 29, 1896—H. E. Hildebrand, clerk—with app. No. 1143. Filed in supreme court, at Austin, Texas, July 2, 1896. Chas. S. Morse, clerk.

*Judgment of the Court of Civil Appeals.*

WEDNESDAY, *April* 29, *A. D.* 1896.

G., H. & S. A. R'y Co., Appellant,
*vs.*
STATE OF TEXAS, Appellee.
} No. 385. Appeal from District Court of Brewster County.

This cause came on to be heard on the transcript of the record, and the same being inspected, because it is the opinion of the court that there was no error in the judgment, it is therefore considered, adjudged, and ordered that the judgment of the court below be in all things affirmed; that the appellant, The Galveston, Harrisburg & San Antonio Railway Company, and its sureties, E. P. Hill and W. N. Shaw, pay all costs in this behalf incurred and this decision be certified below for observance.

180 *Motion for Rehearing.*

In the Court of Civil Appeals, Fourth Supreme Judicial District.

THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY
*vs.*
THE STATE OF TEXAS.
} Appeal from Brewster County.

Now comes The Galveston, Harrisburg & San Antonio Railway Company, appellant in the above-styled cause, by its attorneys, and moves the court to set aside the judgment rendered on the 29th day of April, 1896, in this cause, affirming the judgment of the court below, for the reasons set forth in the opinion of the court on that day filed, and for a rehearing herein, upon the grounds following, to wit:

First.

This court erred in overruling and holding not well taken appellant's first and second assignments of error, each of which com-

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plained in effect of the action and ruling of the court below in refusing appellant's application to remove this cause into the circuit court of the United States, and in proceeding with this cause after the presentation of the petition and bond for such removal. It appeared from plaintiff's petition that appellant was created by special act of the legislature of the State of Texas approved February 11th, 1850, under the name of the Buffalo Bayou, Brazos & Colorado Railroad Company; that acts supplementary to and amendatory of its charter were passed on the 4th day of February, 1854, conferring upon appellant the right to the land in question; that appellant had organized under the acts of incorporation aforesaid and proceeded with the construction of its road, and had completed the same from Buffalo bayou, at Harrisburg, to the Colorado river, at Columbus, prior to the adoption of the constitution of 1869–'70, as shown by said petition, and especially by the act of July 27th, 1870, changing appellant's name; which act was specially referred to and pleaded by the plaintiff. By the act of February 11th, 1850; the acts of February 4th, 1854; the general law of January 30th, 1854; by its organization and commencement of work under its said acts of incorporation, and by constructing and completing its line of railroad, as aforesaid,

181 from Buffalo bayou to the Colorado river prior to the adoption of the constitution of 1869–'70, all as shown by plaintiff's petition, appellant had acquired the right to lands for the construction of its line of railroad, conferred by the acts incorporating it and the acts amendatory of and supplementary thereto, and by all other laws, general and special, of the State of Texas granting lands for the construction of railroads, and the said acts of the legislature of the State of Texas so accepted and acted upon by the appellant became and were binding and valid contracts by and between appellant and the State of Texas, which could not be lawfully impaired; but it was expressly alleged in plaintiff's said petition that the constitution of 1869–'70 forbade the legislature from authorizing or granting lands to railway companies for the construction of their roads, meaning thereby in effect that the said constitution of 1869 undertook to repeal the aforesaid laws and impair and destroy appellant's contract and vested rights thereunder, and under and by virtue of its organization under its acts of incorporation and its acceptance of the terms of said laws and the construction of its railway, as aforesaid, contrary to the constitution of the United States. Under the issue presented by plaintiff's said petition and necessarily arising therefrom it was necessary to the decision of the case to determine whether the said constitution of Texas of 1869–'70 could repeal the said laws or deprive the appellant of its rights secured under the same, as aforesaid, without impairing the obligation of appellant's contract and deprive appellant of its property without due process of law, contrary to the Constitution of the United States.

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Second.

This court erred in overruling and holding not well taken appellant's third assignment of error, which in effect complained of the action of the court below in overruling and denying the appellant's plea in abatement for lack of parties. The plea (Transcript, 101) showed that on June 1st, 1880, appellant executed to Andrew Pearce and George F. Stone, trustees, a mortgage on its railway and all the land in question to secure an issue of negotiable bonds, aggregating one million dollars, which had been sold and negotiated for value and were outstanding at the institution of this suit. It further appeared from said plea that Andrew Pearce, one of said trustees, was dead, and that George F. Stone, the other trustee, by virtue of the terms of the deed became and was the sole trustee in said mortgage, and appellant pleaded that he was a necessary
182 party, as the representative of the holders of said bonds, in order that he might represent such holders in this action, which involved the security provided by said mortgage for said bonds and cast a cloud on the title to such security and impaired the value thereof.

Third.

This court erred in overruling and holding not well taken appellant's fourth assignment of error, which complained of the action of the court below in overruling appellant's general demurrer to plaintiff's petition. Said petition showed that the certificates referred to in said petition were issued at a time when there was no provision in the constitution of the State of Texas prohibiting the same and when there were laws of the State of Texas authorizing the issuance of such certificates, and said petition nowhere by sufficient averment negatived the right of appellant to such certificates under its charter and other laws of the State authorizing the same and nowhere showed by sufficient averment that said certificates, valid upon their face, were unlawfully issued by the executive department of the State government.

Fourth.

This court erred in overruling and holding not well taken appellant's fifth assignment of error, which in effect complained of the action of the court below in rendering judgment for the plaintiff and in not rendering judgment for the appellant for the lands in controversy, because it was shown by the uncontroverted evidence that the appellant was entitled to such lands by virtue of its charter and the amendments thereto and the general laws granting lands to railway companies, and that it had acquired the right to the same prior to the adoption of the constitution of 1869-'70 by virtue of its charter and said laws and the construction and completion in part of its line of railway, and that such right could not be taken away by said constitution, if it was so intended, without violating section 10, article 1, of the Constitution of the United States and the 14th amendment to said Constitution. As already

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stated, appellant had organized under the special acts granting and amending its charter and had constructed a very important part of its line—that is, from Harrisburg to Columbus—prior to the adoption of the constitution of 1869. It had, therefore, accepted the grant and expended a very large amount in earning the same before the adoption of the constitution of 1869–'70, and thereupon ac-
183 quired a vested and contract right to said grant which could not be taken away or impaired by the constitution of 1869–'70 without violating the Constitution of the United States.

Fifth.

This court erred in overruling and holding not well taken appellant's sixth assignment of error, which in effect complained of the action of the court below in rendering judgment for the plaintiff and in not rendering judgment for the defendant for the lands sued for, because it was conclusively shown that the defendant was, if for no other reason, entitled to said lands under and by virtue of the act approved July 27th, 1870, entitled "An act supplementary to the act to incorporate the Buffalo Bayou, Brazos & Colorado Railway Company and of the other special acts relating to said company," and under and by virtue of the amendment to section 6, article 10, of the constitution of 1869, adopted by the people in November, 1872, and ratified by the legislature in March, 1873. The adoption, as aforesaid, of the amendment to section 6, article 10, of the constitution of 1869 related back as of the date of the adoption of the constitution of 1869 and removed all constitutional inhibition, if any, of the right to make such grants and gave full force and effect to the provisions of the said act of July 27th, 1870, and prior legislation granting such lands to appellant.

Sixth.

This court erred in overruling and holding not well taken appellant's seventh assignment of error, which in effect complained of the action of the court below in rendering judgment for the plaintiff and in not rendering judgment in favor of the defendant for the lands sued for, because it was conclusively shown that upon the adoption in November, 1872, of the amendment to section 6, article 10, of the constitution of 1869, ratified by the legislature March, 1873, appellant became, if it was not before, entitled to the lands in question under and by virtue of section 11 of the act passed July 27th, 1870, entitled "An act supplementary to the act to incorporate the Buffalo Bayou, Brazos & Colorado Railway Company and of the other special acts relating to said company," which section provided in effect that appellant should be entitled to the same or similar rights and relief granted to or provided for any other railroad company by the legislature and upon the same or similar terms and conditions, so far as such rights or relief should be in
184 their character applicable to appellant or it- line or lines of railroad. In addition to such grants which had been theretofore and were thereafter made by general and special laws, it was

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shown that the same legislature which ratified the amendment to section 6, article 10, of the constitution of 1869, removing the constitutional prohibition of grants to railroad companies, and at the same session, passed acts making such grants to twenty-eight or more other railroad companies. The rights of appellant under and by virtue of the said section of said act were not presented to or considered by the supreme court in the question certified to it in this cause and is not discussed by this court in its opinion herein. Appellant insists that its right- to the land in controversy were precisely such as were conferred upon a great number of other railroad companies by laws passed in 1873, by the legislature which ratified the amendment to section 6, article 10, of the constitution of 1869, and subsequent laws, and that section 11 of said act of July 27th, 1870, fully secured such rights to it.

Seventh.

This court erred in overruling and holding not well taken appellant's eighth assignment of error, which complained of the action of the court below in rendering judgment for the plaintiff and not in rendering judgment for the defendant, because, if defendant was not otherwise entitled thereto, it was entitled to said lands by virtue of the provisions of the act of August 15th, 1876, granting 16 sections of land to all railroad companies for every mile of railroad completed and put in running order. The act incorporating the appellant and other special acts relating to it showed, and other evidence tended to show, that appellant came within the provisions of the said act of August 15th, 1876, and was entitled to all the benefits thereof, and there was no evidence offered to show that appellant was excepted from and was not entitled to the benefits of said law.

Eighth.

This court erred in overruling and holding not well taken
185 appellant's ninth, tenth, eleventh, thirteenth, fifteenth, and seventeenth assignments of error, complaining in effect of the action of the court below in rendering judgment against defendant for the lands sued for, when it was conclusively shown that the defendant had earned and was entitled to 6,380,953 acres of land for the construction of its line of railway from San Antonio westward to El Paso, a distance of 623 miles, for which land the State of Texas wrongfully and arbitrarily refused to issue appellant certificates or patents; and under said assignments appellant also contended in effect that after appellant had accepted the charter granted to it and the obligations imposed thereby and had expended a vast sum of money in the prosecution of the enterprise, and had about completed said entire line from Buffalo bayou to El Paso, the State of Texas wrongfully sought to repeal all laws granting such lands to appellant, and to that end passed an act entitled "An act to repeal all laws granting land or land certificates to any person, firm, corporation, or company for the construction of railroads, canals, and ditches," approved April 22nd, 1882, and other acts

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passed subsequent to 1876, and thereby sought to deprive appellant of its vested right to said land grant and impair the obligation of its contract with the State of Texas entitling it to said land grant, as evidenced by its charter and the several special laws relating to it and the general laws also conferring said land grant.

The plaintiff was not in any event entitled to recover of appellant the land herein sued for while repudiating and impairing its aforesaid contract with appellant, whereby appellant had become entitled to 6,380,953 acres of land, which the State wrongfully with-eld in pursuance of the aforesaid act of April 22nd, 1882, which was passed to impair the obligation of said contract, contrary to the Constitution of the United States. By constructing its road between San Antonio and El Paso, in consideration of the State's offer of aid in land made under the act of August 16th, 1876, and the special acts relating to the appellant and in reliance upon the good faith
186 of the State, the appellant company acquired a contract and vested right to receive 16 sections of land for each mile of road so constructed. The repealing act of 1882 and other acts passed after the acceptance of the State's offer, after the construction, in reliance thereon, of 600 miles of railroad at enormous expense, after the State had secured the benefits of the quasi-public work, the contemplated consideration for the grant is, so far as it affects appellant's rights, unconstitutional, null, and void. It impairs the obligation of the contract, in violation of section 10, article 1, of the Constitution of the United States, and amounts to the deprivation of property without due process of law, in violation section 1 of the 14th amendment to the Constitution of the United States.

Ninth.

This court erred in overruling and holding not well taken appellant's twelfth assignment of error, which in effect complained of the action of the court below in not holding that by reason of the wrongful act of the State in repealing by act of April 22, 1882, the laws granting lands to appellant and other railroad companies, the State was estopped to recover the lands sued for without tendering appellant certificates for the amount of land earned by the appellant, together with the money received by the State from appellant for surveying and patenting the lands in controversy. When the State instituted this suit she subjected herself to the jurisdiction of the court to the same extent as any ordinary litigant, at least so far as concerns any and all legal or equitable defences to her claim. She can obtain equitable relief only when entitled to it upon principles of equity and good conscience. The rights and claims of appellant to the land grant for the construction of its road west of San Antonio, which is not disputed was earned, constituted at least an equitable defence which should be enforced in any event, so far as they afford ground for dismissing the
187 suit of the State or conditioning the relief accorded her upon her doing justice to the appellant or for quieting the company in the possession of the land sued for. Under the undisputed

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facts and circumstances in evidence, appellant was entitled to a decree dismissing the suit on the ground that complainant's demand was unconscionable or a decree with-olding the relief sought, unless the State should perform in good faith her obligation to appellant, or a decree quieting the appellant in possession of the land now sued for on the ground that if not otherwise entitled thereto it was entitled to receive and hold it as a part of the agreed consideration for the construction of its road to El Paso. See appellant's supplemental argument.

Tenth.

This court erred in overruling and holding not well taken appellant's fourteenth assignment of error, which in effect complained of the action of the court below in not holding that the appellant was entitled to 112,640 acres of land sued for, because it was shown that for eleven miles of appellant's road it had never received certificates, although the same had been inspected by Mr. Wm. P. Hardeman, who was appointed by Gov. O. M. Roberts for the purpose on June 25th, 1881, and his report was duly filed on June 29th, 1881 (Transcript, 225, 250–'51). Its road having been actually inspected by the engineer appointed for that purpose and his report having been duly filed before the passage of the repealing act of April 22, 1882, appellant was clearly entitled to the amount of land earned by the construction of said road, to wit, 112,640 acres, and, the State having wrongfully refused to issue patents therefor, appellant should have been allowed, in any event, to retain that much of the land sued for herein.

Eleventh.

This court erred in overruling and holding not well taken appellant's sixteenth assignment of error, which in effect com-
188 plained of the action of the court below in not holding that the governor, who, in obedience to law, appointed an engineer to inspect the road as completed, was not the sole and exclusive judge as to whether the facts entitling appellant to certificates for the land in question existed. The amendment to section 6, article 10, of the constitution of 1869 having been adopted, and the constitutional restriction, if any, upon the granting of such lands having been thereby removed, appellant was entitled to the land in question for the construction of its road, and the fact of such construction having been ascertain- and determined by the governor in the manner provided by law, his finding and decision in regard thereto was final and conclusive as to the time and manner when said work was done and said certificates earned.

Twelfth.

This court erred in overruling and holding not well taken appellant's fifteenth assignment of error, which in effect complained of the action of the court below in rendering judgment against the appellant when it appeared that from the special acts incorporating and relating to appellant and from the laws granting lands to rail-

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road companies under and by virtue of said special acts, and from the decisions of the supreme court of the State and the uniform construction placed upon such laws by the executive department of the Government, a rule of property with respect to such lands had been established and a vested right under such construction of said laws acquired by appellant, which was violated and taken away by the judgment of the court below, and the construction placed upon said laws by said court contrary to the Constitution of the United States and the amendment thereof.

Thirteenth.

This court erred in affirming the judgment of the court below decreeing to the State the lands sued, for when the uncontradicted evidence showed that the construction of the appellant's road west of the Colorado river was commenced in March, 1873, and the entire work of such construction was performed thereafter and after the adoption of the amendment to section 6, article 10, of the constitution of 1869, removing the restriction, if any, upon appellant's right to acquire such lands under its original charter and the several acts amendatory thereof and supplementary thereto, or
189 under the general laws of the State. (Railway *vs.* Gross, 47 Tex., 428.)

Fourteenth.

This court erred in affirming the judgment of the court below decreeing the land sued for to the State of Texas, when the uncontradicted evidence showed that by section 11 of the act passed July 27th, 1870, supplementary to the act incorporating appellant, it was provided that appellant should be entitled to the same or similar rights and relief granted to or provided for any other railroad company by the legislature, and when the legislature, at the same session which ratified the amendment to section 6, article 10, of the constitution of 1869, passed a great number of special laws conferring upon other railroad companies precisely the same land grants as that now in controversy, and when the entire road, for the construction of which the lands in question were granted, was constructed by appellant after the passage of such acts and after said amendment to the constitution.

Fifteenth.

This court erred in affirming the judgment of the court below decreeing to the State the lands sued for, when the uncontradicted evidence showed that for the construction of that part of appellant's line of railroad between San Antonio and El Paso, consisting of upwards of 623 miles, the State of Texas wrongfully withheld from appellant the lands earned by it by the construction of said road, aggregating 6,380,953 acres, under and by reason of the act of April 22nd, 1882, repealing all laws granting lands to railroad companies, which act impaired appellant's contract with the State, and was passed in violation of section 10, article 1, of the Constitution of the United States,



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and deprived appellant of property without due process of law, in violation of section 1 of the 14th amendment to said Constitution.

Sixteenth.

This court erred in affirming the judgment of the court below decreeing the land sued for to the State of Texas, while allowing the State, under the act of April 22nd, 1882, passed in violation of the Constitution of the United States, to withhold from appellant 6,380,953 acres of land, which the undisputed facts in evidence showed appellant earned by the construction of that part of its line of
190 railway between San Antonio and El Paso, consisting of more than 623 miles, when the court below should have dismissed the State's suit on the ground that under such circumstances the State's demand was unconscionable, or should have withheld the relief sought until the State performed in good faith her obligations to appellant with respect to such lands, or should have rendered a decree quieting the appellant in the possession of the land now sued for on the ground that if not otherwise entitled thereto appellant is entitled to receive and hold it as a part of the agreed consideration for the construction of its said road between San Antonio and El Paso.

Seventeenth.

This court erred in holding in effect that the constitution of 1869, and especially section 6, article 10, thereof, deprived appellant of the 16 sections of land for each mile of road constructed by it, granted by the act incorporating it and the several acts amendatory thereof, and the general laws of the State on the subject theretofore in force, which land, including all that now in controversy, it is conceded by the supreme court, appellant would have been entitled to but for the adoption of said constitution, because appellant says that the said constitution of 1869, so construed, impairs the obligation of appellant's contract, whereby it was to receive said land grant, and destroyed appellant's vested right to said land grant, contrary to section 10, article 1, of the Constitution of the United States, and section 1 of the 14th amendment thereof.

Eighteenth.

This court erred in holding that appellant did not succeed to all and singular the rights of the Buffalo Bayou, Brazos & Colorado Railroad Company, and misapprehended and misconstrued the opinion of the supreme court upon that point delivered in answer to the questions in this case certified to that court. All the rights, franchises, and privileges conferred upon the Buffalo Bayou, Brazos & Colorado Railway Company passed and belonged to appellant. (Rev. Stat. 1895, art. 4549; H. & T. C. R. R. Co. *vs.* Shirley, 54 Tex., 125, 138; Acres *vs.* Moyne, 59 Tex., 623; G., C. & S. F. R. Co. *vs.* Newell, 73 Tex., 335.)

Wherefore appellant prays the court to set aside its said judgment herein affirming the judgment of the court below and grant

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it a rehearing; and appellant represents that the Honorable
191 M. M. Crane, attorney general of the State of Texas, who resides and has his office in the city of Austin and county of Travis, Texas, is counsel and attorney of record for appellee, The State of Texas, and appellant prays for service of this motion upon him as the law requires.

Respectfully submitted.

T. D. COBBS,
J. P. BLAIR,
BAKER, BOTTS, BAKER & LOVETT,
*Attorneys for Galveston, Harrisburg & San Antonio Railway Company, Appellant.*

Endorsed: No. 385. Mo. 1014. Galveston, Harrisburg & San Antonio Railway Co. *vs.* The State of Texas. Motion for rehearing. Filed in the court of civil appeals at San Antonio, Texas, May 13, 1896. H. E. Hildebrand, clerk. With app. No. 1143. Filed in supreme court at Austin, Texas, July 2, 1896. Chas. S. Morse, clerk.

*Order of Court on Motion for Rehearing.*

WEDNESDAY, *June 3rd, A. D.* 1896.

G., H. & S. A. R'y Co., Appellant, *vs.* STATE OF TEXAS, Appellee. } No. 385. Appeal from Brewster County.

The motion of appellant for a rehearing, filed May 13, 1896, coming on to be heard, and the court having duly considered the same, it is ordered that said motion be, and it is hereby, overruled, and it is further ordered that appellant, The Galveston, Harrisburg & San Antonio Railway Company, and its sureties, E. P. Hill and W. N. Shaw, pay all costs of this motion.

*Petition for Writ of Error.*

In the Supreme Court of Texas.

THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY
192 *vs.*
THE STATE OF TEXAS.

Petition for writ of error to the court of civil appeals for the fourth supreme judicial district.

Your petitioner, The Galveston, Harrisburg & San Antonio Railway Company, applying for a writ of error to the court of civil appeals for the fourth supreme judicial district of Texas for the removal of the above-entitled cause from said court into this honorable court, respectfully represents that this, the said cause, was instituted in the district court of Brewster county, Texas, by The State of Texas,

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as plaintiff, against your petitioner, as defendant, for the recovery of 1,383 sections, tracts, or parcels of land containing, in the aggregate, $879{,}078\frac{1}{2}{}_{0}$ acres, situated in the counties of Jeff Davis, Presidio, Brewster, Kimble, San Saba, Val Verde, Crockett, McCulloch, Pecos, Buchel, Reeves, Schleicher, Sutton, and Zavalla counties, and resulted in judgment in the court below on the 13th day of September, 1893, in favor of the plaintiff for all the lands sued for; which judgment, on appeal therefrom by petitioner, was in all things affirmed by the court of civil appeals by a judgment rendered on the 29th day of April, 1896. Motion for rehearing, which was filed by petitioner in said court on May 13th, 1896, was overruled by said court on the 3rd day of June, 1896; and petitioner says that in the judgment and proceedings in said cause the said court of civil appeals committed error in its rulings upon questions of law, the determination of which were necessary to the decision of said cause in the court of civil appeals and which are relied upon by petitioner as grounds for its application for writ of error herein as follows, to wit:

First. The said court of civil appeals erred in overruling and holding not well taken appellant's first and second assignments of error, each of which complain, in effect, of the action and ruling of the court below in refusing appellant's application to remove this cause into the circuit court of the United States and in proceeding with this cause after the presentation of the petition and bond for such removal.

*Statement.*

Plaintiff's petition alleged (Trans., 67) that the Buffalo Bayou, Brazos & Colorado Railway Company was chartered by the special act of February 11th, 1850 (Laws 1849–'50, page 194). It also alleged "that by the special act of the legislature of the State
193 of Texas approved July 27th, 1870, the name of the Buffalo Bayou, Brazos & Colorado Railway Company was changed to The Galveston, Harrisburg & San Antonio Railway Company, the defendant," etc. (Trans., 68). It also alleged (Trans., 68) that at the time the aforesaid act of July 27th, 1870, was passed "the constitution of 1869–'70 forbade the legislature from authorizing or granting lands to railway companies for the construction of their roads, though no land was granted by said act," and also alleged (Trans., 75) that the issuance of the certificates described in plaintiff's petition was "in violation of the constitution and laws of this State," etc. It sufficiently appeared from plaintiff's petition and also from the aforesaid act of July 27th, 1870, specially pleaded therein, that part of your petitioner's line of railway extending from Harrisburg to Columbus had been constructed and was in operation prior to the adoption of the constitution of 1869.

Your petitioner in due time presented to the court below its application to remove this cause into the Federal court upon the ground, in effect, that the suit was one arising under the constitution and laws of the United States (Trans., 77–100). It was claimed in effect in the petition for removal, as well as in the original answer filed therewith, that petitioner had proceeded under its charter

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granted by the special act of February 11th, 1850, and the acts amendatory thereof and supplementary thereto to construct and had constructed prior to the adoption of the constitution of 1869 a large and important part of its line of railway—*i. e.*, from Harrisburg to Columbus—and had acquired thereby and under the special acts relating to it and under the general laws referred to by such acts a contract and vested right to sixteen sections of land for each mile of road which it should construct, and that the constitution of 1869, pleaded by plaintiff in its original petition, impaired the obligation of such contract, in violation of section X, article 1, of the Constitution of the United States and deprived petitioner of property without due process of law, in violation of section 1 of the 14th amendment of said Constitution. The application to remove was denied by the court below (Trans, 135); to which ruling petitioner duly excepted. (Trans., 140.)

It appeared from the special acts incorporating and relating to petitioner, as pleaded in the State's original petition, and from the general law of January 30th, 1854, referred to in and made a
194 part of such special acts, that petitioner was entitled to sixteen sections of land for each mile of road it should construct unless the grant thus made had been in some manner withdrawn, and the constitution of 1869 was specially set up by the State in its petition as a reason why petitioner was not entitled to the grant for the construction of its line to San Antonio. By reference to the special laws mentioned in plaintiff's petition it appears that petitioner was incorporated by the special act of February 11th, 1850; that by the act of January 29th, 1853, it was granted eight sections of land for each mile of its road; that by an act of February 4th, 1854, it was granted all the rights, privileges, and benefits accruing from any general law or laws that had been or might thereafter be passed by the State to encourage the construction of railroads in the same manner and to the same extent as if the gauge of its road was the same as then fixed or might be thereafter fixed upon by the State, and this had the effect of conferring upon the company the land grant provided by the general law of January 30th, 1854, which was then in force. It also appeared from another special act of February 4th, 1854, that the route of the company's road was restricted to an extension of their existing road to Austin, etc.; and it appeared in the special act of July 27th, 1870, pleaded in plaintiff's petition, that such restriction with respect to route is removed by that act. It further appears from the act of July 27th, 1870, pleaded by the plaintiff, that petitioner had constructed its road from Harrisburg to the Colorado river, which necessarily involved a very large expenditure of money prior to the constitution of 1869.

*Authorities.*

Laws 1849–'50, page 194.
Special Laws 1853, page 3.
Laws 1853–'4, page 11.
Act Feb. 4, 1854, Laws 1854, page —.

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Act Feb. 4th, 1854, Laws 1854, page —.
Act July 27th, 1870, Special Laws 1870, page 45.
Constitution 1869, sec. 6, art. 10.
Railroad Co. *v.* Kuechler, 36 Tex., 382.
Davis *vs.* Gray, 16 Wall., 203.
United States *vs.* D. & R. G. Co., 150 U. S., 1.
195 Fletcher *vs.* Peck, 6 Cranch, 136.
People *vs.* O'Brien, 111 N. Y., 1.
Act of Congress Aug. 13th, 1888, 25 Statute.
Tennessee *vs.* Union Bank, 152 U. S., 454.

Second.

The court of civil appeals erred in overruling and holding not well taken appellant's third assignment of error, which in effect complained of the action of the court below in overruling and denying and holding not well taken appellant's plea in abatement for lack of parties.

*Statement.*

The plea (Trans., 101) showed that on June 1st, 1880, appellant executed and delivered to Andrew Pierce and George F. Stone, trustees, a mortgage or deed of trust upon its railroad, corporate rights and franchises, and the lands sued for to secure the bonds of the company issued to the amount of one million dollars; that Andrew Pierce thereafter died, and George F. Stone, under the terms of the mortgage, thereupon became the sole trustee; that said bonds were still outstanding and the mortgage securing the same had been duly recorded in each of the counties where the property was situated, and it was claimed that George F. Stone, as such surviving trustee, was a proper and necessary party as the representative of the holders of said bonds (Trans., 101–105). This plea was overruled and denied by the court below. (Trans., 107–172.)

*Authorities.*

Rev. Stat. 1895, art. 5252–5254, 1208.
Ship Channel Co. *vs.* Bruly, 45 Tex., 6.
De La Vega *vs.* League, 64 Tex., 205, 212.
Halloway *vs.* McIlhenny, 77 Tex., 657.

Third.

The court of civil appeals erred in overruling and holding not well taken appellant's fourth assignment of error, which complains of the action of the court below in overruling appellant's general demurrer to plaintiff's petition.

*Statement.*

Plaintiff's petition showed that the certificates therein mentioned were issued by the commissioner of the general land office; that they had been located in the manner provided by law, and that

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patents in most instances, as shown by plaintiff's petition, had been issued to petitioner for the land sued for, whereby it had be-
196 come invested with the legal and complete title to the lands for which patents had been issued, and that it had at least the equitable right and title to the lands surveyed, as shown, but which had not been patented.

*Authorities.*

United States *vs.* Maxwell Land Grant Co., 121 U. S., 325.
Colorado C. & J. Co. *vs.* United States, 123 U. S., 307.
United States *vs.* California, etc., Land Co., 148 U. S., 31.
United States *vs.* Aredondo, 6 Peters, 691.
Sherman *vs.* Simmons, 109 U. S., 735.
Black *vs.* Commissioners, 99 U. S., 686.

Fourth.

The court of civil appeals erred in overruling and holding not well taken appellant's fifth assignment of error, which in effect complained of the action of the court below in rendering judgment for the plaintiff and in not rendering judgment for appellant for the lands in controversy and in affirming the judgment of the court below, because it was shown by the uncontroverted evidence that appellant was entitled to such lands by virtue of its charter and the amendments thereto and the general laws granting lands to railway companies, and that it had acquired the right to the same prior to the adoption of the constitution of 1869–'70 by virtue of its charter and said laws and the construction and completion in part of its line of railway, and that such right could not be taken away by said constitution without violating section 10, article 1, of the Constitution of the United States and the 14th amendment of said Constitution.

*Statement.*

See fourteenth and seventeenth ground- of motion for rehearing. The Buffalo Bayou, Brazos & Colorado Railway Company, as we have seen, was incorporated by special act of the legislature approved February 11th, 1850 (Gen. Laws 1849–'50, page 194). An act approved Feb. 4th, 1854, conferred upon the company "all the rights, privileges, and benefits accruing from any general law or laws that have or may hereafter be passed by this State to encourage the construction of railroads in the same manner and to the same extent as if the gauge of said road was the same now fixed or which may be hereafter fixed upon by this State" (chap. 45, page 69, Special Laws 1854). The company's road commenced on Buffalo bayou and extended thence westwardly, and it therefore became, upon the passage of this special act, entitled to the land grant provided by the general law of January 30th, 1854. By another special act approved Feb. 4th, 1854 (chap. 46, page 70, Special Laws 1854), it was provided that the company should not be entitled to the benefits thus conferred for any portion of its road which should

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not be completed and ready for use within ten years after
197 the passage of the act last named. By an act approved Jan. 11th, 1862, it was provided that the time of the continuance of the war between the Confederate States and the United States should not be computed against any internal improvement company in reckoning the period allowed them in their charters by any law, general or special, for the completion of any work contracted by them to do (Gen. Laws 1862, chap. 62, page 43). By another act of the same date, entitled "An act for the relief of railroad companies," it was provided that the failure of any chartered railroad company to complete any section or fraction of section of its road, as required by existing laws, should not operate as a forfeiture of its charter or of the lands to which it would be entitled under the provision of the act to encourage the construction of railroads by donation of land, approved January 30th, 1854, and the several acts supplementary thereto, provided it should complete such section or fraction of section as would entitle it to donations of land under existing laws within two years after the close of the war (Gen. Laws 1862, chap. 69, page 46). The effect of these acts was to extend the general law of January 30th, 1854, which would have otherwise expired in 1864, until the 20th day of August, 1868, two years after the close of the war. On November 13th, 1866, the legislature passed an act entitled "An act for the benefit of railroad companies," the effect of which was to extend the general act of January 30th, 1854, granting lands to railroad companies, for ten years after November 13th, 1866. From the preamble to the special act of July 27th, 1870, relating to petitioner, it appears that the Buffalo Bayou, Brazos & Colorado Railway Company had, prior to the adoption of the constitution of 1869–'70, constructed its road from Harrisburg to the Colorado river, and that all its railroad, together with its corporate rights and franchises, had been sold out under executions issued on judgments against it and under the provisions of a mortgage or deed of trust made by it.

*Authorities.*

Davis *vs.* Gray, 16 Wall., 203, 228.
State *vs.* Minnesota & C. R. Co., 36 Minn., 259.
Railroad Co. *vs.* Ga., 98 U. S., 365.
H. & T. C. R. Co. *vs.* Shirley, 54 Tex., 125, 138.
198 Acres *vs.* Moyne, 59 Tex., 623.
G., C. & S. F. R. Co. *vs.* Newell, 73 Tex., 335, 338.
Orr *vs.* Rhine, 45 Tex., 345, 353.
Hanrick *vs.* Hanrick, 54 Tex., 108.
Neil *vs.* Keese, 5 Tex., 22.
Laughter *vs.* Sula, 59 Tex., 183.
The Distilled Spirits, 11 Wall., 356–364.
Henderson's Tobacco, 11 Wall., 652, 658.
Davis *vs.* Fairburn, 3 How., 636, 644.
United States *vs.* Walker, 22 How., 399, 311.
McCool *vs.* Smith, 1 Black, 459, 470.

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Laredo *vs.* Martin, 52 Tex., 561.
Ellis *vs.* Botts, 26 Tex., 707.
Scoby *vs.* Sweatt, 28 Tex., 728.
State *vs.* Stoll, 17 Wall., 425, 436.
*Ex parte* Crow Dog, 109 U. S., 570.
New Jersey *vs.* Yarde, 95 U. S., 104, 117.
Sutherland on Statutory Construction, sec. 157, 158.
Gowen *vs.* Harley, 12 U. S. App., 574, 584.
Sutherland on Statutory Construction, sec. 137.
Railroad Co. *vs.* Kuechler, 36 Tex., 383.
Railroad Co. *vs.* Gross, 47 Tex., 437.
Davis *vs.* Grey, 16 Wall., 203.
G., H. & S. A. R'y Co. *vs.* State, 81 Tex., 595.
Salt Co. *vs.* East Saginaw, 13 Wall., 373.
U. S. *vs.* Denver & Rio Grande R'y Co., 150 U. S., 1, 8, 14.
Fletcher *vs.* Peck, 6 Cranch, pp. 136, 137.
Hall *vs.* Wisconsin, 103 U. S., 5.
Bishop on Contracts (ed. 1887), sec. 329.
People *vs.* O'Brien, 18 N. E. Rep., pp. 702, *ffg.*
Wallace *vs.* Loomis, 97 U. S., 146, 154.
Southern Pacific Co. *vs.* Orton, 6 Sawyer (C. C., 157; S. C., 32 Fed. Rep., 457).
Cherew & Salisbury R. R. Co. *vs.* Commissioners of Anson, 88 N. C., 519 (17 Am. & Eng. R. R. Cas., p. 434).

Fifth.

The said court of civil appeals erred in overruling and holding not well taken appellant's sixth assignment of error, which
199 in effect complained of the court below in rendering judgment for the plaintiff and in not rendering judgment for the defendant, because it was conclusively shown that the defendant was, if for no other reason, entitled to said land under and by virtue of the said special act of July 27th, 1870, and of the amendment to section 6, article 10, of the Constitution of 1869, adopted by the people in November, 1872, and ratified by the legislature in March, 1873, because the adoption of the constitutional amendment referred to related back as of the date of the constitution of 1869 and removed all constitutional inhibition, if any, of the right to make such grants and gave full force and effect to the act of July 27th, 1870, and prior legislation granting such lands to petitioner. The form of the amendment, and especially the second proviso thereof, evidences a recognition of the validity of intermediate legislation and an intention to give effect to this proviso as of the date of the adoption of the constitution of 1869.

*Statement.*

See fifth ground of motion for rehearing. The constitution of 1869 took effect on the 30th day of March, 1870. The amendment of section 6, article 10, was proposed by the legislature by a resolu-



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tion passed May 17th, 1871 (Gen. Laws 1871, page 160). It was adopted by a vote of the people on the 5th, 6th, 7th, and 8th days of November, 1872. It was ratified by the legislature by a resolution passed on the 19th day of March, 1873 (Gen. Laws 1873, page 224, 225) and became effective on that date.

## Sixth.

The said court of civil appeals erred in overruling and holding not well taken petitioner's seventh assignment of error, which in effect complained of the action of the court below in rendering judgment for the plaintiff for the lands sued for, because it was conclusively shown that upon the adoption of the amendment to section 6, article 10, of the constitution of 1869 petitioner became, if it was not before, entitled to the lands in question under and by virtue of section 11 of the act passed July 27th, 1870, and when the uncontroverted evidence showed that the construction of petitioner's road, for which the certificates described in plaintiff's petition were issued, and the entire work of such construction was performed after the adoption of said constitutional amendment.

### *Statement.*

See sixth and thirteenth grounds of the motion for rehearing. Section 11 of the special act passed July 27th, 1870, relating to petitioner reads as follows:

"SECTION 11. That said new company shall be entitled to the same or similar rights and relief, except State aid in bonds, or endorsement of, or guaranty of interest on bonds, granted to or provided for any other railroad company by the legislature, and upon the same or similar terms and conditions, so far as such rights or relief are, in their character, applicable to said new company or its line or lines of railroad." (Special Laws 1870, chap. 28, pages 45–49.)

The evidence showed that the construction of petitioner's road for which the certificates in question were issued began at Columbus westwardly in March, 1873, and was completed to the West Navidad about June 1st, 1874; that the road was open for business on the following dates: To Weimar November 16th, 1873; Schulenburg, December 1st, 1873; Flatonia, April 16th, 1874; Waelder, July 1st, 1874; Luling, Sept. 1st, 1874; Kingsbury, July 23rd, 1875; Seguin, Aug. 10th, 1875; Guadalupe river, August 10th, 1876 (Trans., 248, 249), and the court of civil appeals so found the facts to be. (See page 8, findings of fact filed by the court of civil appeals.)

The legislature which ratified the amendment to section 6, article 10, of the constitution of 1873 granted sixteen sections of land to the following-named railroad companies for each mile of road they should construct:

Austin & Pacific Short Line Railroad Company.

Atlantic & Pacific railroad, to aid in construction of.

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Beaumont, Corsicana & Fort Worth Railroad Company.
Carthage Branch Railway Company.
Columbus, Austin & Parker County Railroad Company.
Corpus Christi & Rio Grande railway.
Dallas, Palestine & Southeast Texas railroad.
Dallas & Wichita Railroad Company, charter amended.
Fort Worth & Denver City Railway Company.
East Line & Red River railroad, charter amended.
Fort Worth, Cleburne & Waco Railway Company.
Galveston & Eastern Texas Railway Company, charter amended.
Gulf, Western Texas & Pacific railway, to aid in construction of.
Gulf, Colorado & Santa Fe Railway Company.
Hempstead Eastern & Western Trunk Railway Company.
Lavaca Tap Railway Company.
Ledbetter & La Grange Railway Company.
Orange, Jasper & Shelby Railroad Company.
Pacific & Great Eastern Railway Company.
Paris, Greenville & Cleburne Railway Company.
Rockport, Fulton, Laredo & Mexican Pacific Railroad Company, amended.
Sherman, Tyler & Anderson Railway Company.
Sherman, Wichita & Panhandle railway.
St. Louis & Mexican Gulf Railroad Company.
Texas & Pacific Railway Company, defining rights of.
Texas Timber & Prairie Railroad Company, charter amended.
201 Tyler Tap Railroad Company, amending.
Western Narrow Gauge Railway Company, supplement.

*Authorities.*

Railroad Co. *vs.* Gross, 47 Tex., 428, 436.
Cooley's Constitution- Limitation-, 114–117.
Brig Aurora, 7 Cranch, 32.
Peck *vs.* Weddell, 17 Ohio State, 271.

Seventh.

The said court of civil appeals erred in overruling and holding not well taken appellant's eighth assignment of error, which complained of the action of the court below in rendering judgment for the plaintiff, because if petitioner was not otherwise entitled thereto it was entitled to said lands by virtue of a provision of the act of August 15th, 1876, granting sixteen sections of land to all railroad companies for every mile of railroad completed and put in running order.

*Authorities.*

General Laws 1876, page 153.
G., H. & S. A. R'y Co. *vs.* State, 81 Tex., 593.

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Eighth.

The said court of civil appeals erred in overruling and holding not well taken appellant's ninth, tenth, eleventh, thirteenth, fifteenth, and seventeenth assignments of error, complaining in effect of the action of the court below in rendering judgment against defendant for the lands sued for, when it was conclusively shown that petitioner had earned and was entitled to 6,380,953 acres of land for the construction of its line of railway from San Antonio to El Paso, a distance of 623 miles, for which land the State of Texas wrongfully and arbitrarily refused to issue certificates or patents, and had by the act of April 22, 1882, attempted to repeal all laws granting lands to petitioner, as well as other railway companies, and under which petitioner had constructed its road and earned said lands, and had thereby sought to deprive petitioner of its vested right to said land and impair the obligation of its contract right thereto, contrary to section 10, article 1, of the Constitution of the United States and to section 1 of the 14th amendment of the Constitution of the United States, and in holding that petitioner's rights to said 6,380,953 acres of land so earned by the construction of its road west of San Antonio subsequent to the act of August 15th, 1876, and the conduct of the State in reference thereto was not sufficient and valid as an equitable defense to the demand of the State in this action, and as a reason why upon principles of equity and good conscience the State should not receive the relief sought in this action.

*Statement.*

See the eighth ground of petitioner's motion for rehearing. The court of civil appeals found as a fact that " construction west of San Antonio began in May, 1881. The first grading at Rio Grande river near El Paso was done on March 28th, 1881. The construction of the road was finished from El Paso eastward December 27th, 1882. The road was open for business west from San Antonio
202 and El Paso at La Costa, 25 miles, October, 1881 ; at Hondo, 50 miles, 1881 ; at Sabinal, 71 miles, October 24th, 1881 ; at Uvalde, 93 miles, Nov. 21st, 1881 ; at Eagle Pass junction, 132 miles, March 6th, 1882; at Del Rio, 170 miles, June 23rd, 1882. Construction west from San Antonio and east from El Paso met in January, 1883." (See findings of fact filed by court of civil appeals, page 8.) The State refused to issue and grant any certificates to petitioner for any part of the road constructed between San Antonio and El Paso, a distance of 623.14 miles. (See findings of fact in court of civil appeals, page 8.)

Ninth.

The court of civil appeals erred in overruling and holding not well taken petitioner's twelfth assignment of error, which in effect complained of the action of the court below in not holding that by reason of the wrongful act of the State in repealing, by the act of April 22, 1882, the laws granting lands to appellant and other rail-

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ad companies the State was estopped to recover the lands sued r without tendering appellant certificates for the amount of the nd earned by the construction west of San Antonio, together with e money received by the State for surveying and patenting the nds in controversy and for taxes thereon.

*Statement.*

It was shown that petitioner had paid all taxes on the lands ac-uing after their location and all fees for locating and surveying e same, as well as the same number of alternate sections for the blic free schools and all fees to the commissioner of the general nd office in reference thereto and all sums of money necessary r its protection and in the way of betterments and for preservation the same. (See findings of fact filed by the court of civil appeals, ge 2.)

Tenth.

The court of civil appeals erred in overruling and holding not ell taken appellant's fourth assignment of error, which in effect mplained of the action of the court below in not holding that pellant was entitled to 112,640 acres of the land sued for, because was shown that for eleven miles of petitioner's road it had never ceived certificates, although the same had been inspected by m. P. Hardeman, who was appointed by Governor Roberts for at purpose on June 25th, 1881, and duly filed his report on June th, 1881.

*Statement.*

See report of Wm. P. Hardeman, who was appointed by Governor berts to make the inspection. (Trans., 252–255.)

Eleventh.

The said court of civil appeals erred in overruling and holding t well taken appellant's sixteenth assignment of error, which in fect complained of the action of the court below in not holding at the governor, who, in obedience to the law, appointed an engi-neer to inspect the road as completed, was not the sole and 3 exclusive judge as to whether the facts entitling petitioner to certificates to the land in question existed, and that his nclusion was final.

*Statement.*

Of course, the road was inspected by an engineer appointed by the vernor as provided by law before the certificates described in aintiff's petition *was* issued.

Twelfth.

The said court of civil appeals erred in overruling and holding t well taken appellant's fifteenth assignment of error, which in fect complained of the action of the court below in rendering

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judgment against petitioner when it appeared that from the special acts incorporating and relating to petitioner and from other laws granting lands to railroad companies and from the decisions of the supreme court of the State and the uniform construction placed upon such laws by the executive department of the Government a rule of property with respect to such lands had been established and a vested right under such construction of said laws had been acquired by petitioner, which was taken away by the judgment of the court below and the construction placed upon such laws by said court contrary to the Constitution of the United States and the amendments thereto.

*Statement.*

See twelfth ground of petitioner's motion for rehearing.

Thirteenth.

The said court of civil appeals erred in concluding and holding as matter of law that the petitioner did not succeed to all the rights of the Buffalo Bayou, Brazos & Colorado Railway Company, and also misapprehended and misconstrued the opinion of this court upon that point delivered in answer to the questions in this case certified to this court.

*Statement.*

See last paragraph of the conclusions of law filed by the court of civil appeals.

Wherefore petitioner prays upon each and all of the grounds and for each and all of the reasons hereinbefore stated for the issuance of a writ of error in this case to said court of civil appeals as provided by law.

J. P. BLAIR,
T. D. COBBS,
BAKER, BOTTS, BAKER & LOVETT,
*Attorneys for Galveston, Harrisburg & San Antonio Railway Company, Petitioner.*

CLERK'S OFFICE, SUPREME COURT.

I, Chas. S. Morse, clerk of the supreme court of Texas,
204 hereby certify that the foregoing thirteen pages contain a true and correct copy of the original petition for writ of error No. 1143, G., H. & S. A. R'y Co. *vs.* The State of Texas, filed in this court July 2nd, 1896, and refused by this court May 6th, 1897, as the same is now on file in my office.

Witness my hand and the seal of said court this the 15th day of May, A. D. 1897.

[SEAL.]

CHAS. S. MORSE, *Clerk.*
By FRED. W. SHELLEY, *Deputy.*

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Endorsed: App. No. 1143. G., H. & S. A. R'y Co. *vs.* The State of Texas. Certified copy of petition for writ of error. Filed in the court of civil appeals at San Antonio, Texas, June 24, 1897. H. E. Hildebrand, clerk.

*Judgment of Supreme Court.*

In Supreme Court of Texas, Fourth District.

G., H. & S. A. R'y Co. *vs.* State of Texas.

MAY 6, 1897.

This day came on to be heard the application of the G., H. & S. A. R'y Co. for a writ of error to the court of civil appeals for the fourth supreme judicial district, and, the same having been duly considered, it is ordered that said application be refused; that the applicant, The Galveston, Harrisburg & San Antonio Railway Company, and its sureties, E. P. Hill and W. N. Shaw, pay all costs incurred on this application.

I, Charles S. Morse, clerk of the supreme court of Texas, hereby certify that the above is a true and correct copy of the judgment rendered by said court on the application of the G., H. & S. A. R'y Co. for a writ of error.

Witness my hand and the seal of said court this the 22nd day of May, A. D. 1897.

205 CHAS. S. MORSE, *Clerk*,
[SEAL.] By F. T. CONNERLY, *Deputy*.

Endorsed: No. 1143. G., H. & S. A. R'y Co. *vs.* State of Texas. Copy of judgment in supreme court. Application for writ of error refused. Filed in the court of civil appeals at San Antonio, Texas, May 24, 1897. H. E. Hildebrand, clerk.

*Bill of Costs in Supreme Court.*

Clerk's Office, Supreme Court.

G., H. & S. A. R'y Co. *vs.* State of Texas. No. 1143.

Certified copy bill of costs, supreme court.

| | |
|---|---|
| Filing application | $ 50 |
| Docketing petition | 50 |
| Entering appearances of counsel | 50 |
| Filing 7 briefs & arg'ts | 2 10 |
| Filing 3 papers | 90 |
| Entering judgment on application | 1 00 |
| Certified copy of judgment | 1 00 |
| Taxing costs of application | 50 |
| Certified copy of bill of costs | 1 00 |
| Total | $8 00 |

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I, Charles S. Morse, clerk of the supreme court of Texas, hereby certify that the above copy of the original bill of costs is true and correct.

Witness my hand and the seal of said court, at Austin, this the 22nd day of May, 1897.

CHAS. S. MORSE, *Clerk.*

Endorsed: Application No. 1143. Certified copy bill of costs in supreme court, Austin. G., H. & S. A. R'y Co. *vs.* State
206 of Texas. $8.00. Filed in the court of civil appeals at San Antonio, Texas, May 24, 1897. H. E. Hildebrand, clerk.

*Petition for Writ of Error.*

In the Court of Civil Appeals, Fourth Supreme Judicial District of Texas.

THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY *et al.*
*vs.*
THE STATE OF TEXAS. } No. 385.

To any justice of the Supreme Court of the United States or the chief justice of the court of civil appeals in and for the fourth supreme judicial district of Texas:

Your petitioners, The Galveston, Harrisburg & San Antonio Railway Company, a railroad corporation created under and by virtue of the laws of the State of Texas, and E. P. Hill and W. N. Shaw, both residents of Harris county, Texas, respectfully represent that in the above numbered and entitled cause, then pending therein on appeal from the district court of Brewster county, wherein petitioner The Galveston, Harrisburg & San Antonio Railway Company was the only party appellant and The State of Texas was the only appellee, and petitioners E. P. Hill and W. N. Shaw were the sureties and the only sureties on the appeal bond of appellant, the court of civil appeals in and for the fourth supreme judicial district of the State of Texas, on the 29th day of April, 1896, affirmed a judgment in said cause rendered on the 13th day of September, 1893, by the district court in and for Brewster county, Texas, in favor of The State of Texas, as plaintiff, and against petitioner The Galveston, Harrisburg & San Antonio Railway Company, as defendant in said district court, and said court of civil appeals at the same time rendered judgment against petitioners Hill and Shaw, as well as said railway company, for all costs of suit; that thereafter and in
207 due time petitioner railway company filed in the said court of civil appeals its motion for a rehearing, which was thereafter, to wit, on the third day of June, 1896, by said court overruled and denied; that thereafter and in due time petitioner railway company applied, in due form and as authorized by law, to the supreme court of the State of Texas for a writ of error in said cause to the said court of civil appeals, which application was thereafter, to wit,

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on the 6th day of May, 1897, by said supreme court denied and the writ of error prayed for by petitioner railway company refused; whereupon the said judgment of the said court of civil appeals, which is the highest court of said State in which a decision in said suit could be had, became and is final.

And petitioners say that they are aggrieved by the said judgment and the proceedings in said suit, and that in the said judgment and proceedings had prior thereunto in said cause errors were committed, to the prejudice of petitioners, because, they say, there was in said suit drawn in question the validity of a statute of or an authority exercised under the United States and the decision in such suit was against their validity, and there was drawn in question the validity of a statute or constitution of or an authority exercised under a State, on the ground of their being repugnant to the Constitution or laws of the United States, and the decision in said suit was in favor of their validity, and that titles, rights, privileges, and immunities were in said suit claimed by petitioners under the Constitution and statutes of and commissions held and an authority exercised under the United States and the decision in said suit was against the titles, rights, privileges, and immunities specially set up and claimed therein by petitioners under such Constitution, statutes, commissions, and authority, as will hereinafter more fully appear.

Your petitioners say that this suit was instituted in the district court of Brewster county, Texas, by The State of Texas, as plaintiff, against The Galveston, Harrisburg & San Antonio Railway Company, petitioner, as defendant, for the recovery of thirteen hundred and eighty-three sections, tracts, or parcels of land, containing in the aggregate, say, $879{,}078\frac{1}{2}$ acres, situated in the counties of Jeff Davis, Presidio, Brewster, Kimble, San Saba, Val Verde, Crockett, McCulloch, Pecos, Buchel, Reeves, Schleicher, Sutton, and Zavalla,

208 which had been theretofore granted to petitioner railway company by the State of Texas out of the unappropriated public domain of said State under laws of said State, hereinafter referred to, to aid and induce said railway company to construct the lines of railway which it was authorized by its charter and said laws to construct; that the ground upon which the State of Texas in said suit sought to recover said lands was, in effect, that at the time the road for which they were granted was constructed by petitioner railway company and at the time the certificates for said lands were issued and located and said lands were acquired and patents for a large part thereof were issued the laws of said State granting said lands to said railway company had been, in effect, repealed by the constitution of 1869, and that there was then no valid law of the State making or authorizing such grant.

Petitioners further represent that petitioner railway company was originally incorporated under the name of the "Buffalo Bayou, Brazos & Colorado Railway Company" by an act of the legislature of the State of Texas entitled "An act to incorporate the Buffalo Bayou, Brazos & Colorado Railroad Company," approved February 11th, 1850, with authority to locate, construct, own, and maintain



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a railway commencing at a suitable point on Buffalo bayou, between Lynchburg and Houston, in the county of Harris, and thence running by such course and to such point at or near the Brazos river, between the towns of Richmond and Washington, inclusive, as said company should deem most suitable, with the privilege of making, owning, and maintaining such branches of said railway as it might deem expedient (Gen. Laws 1850, page- 194–198); that said company was thereafter organized in pursuance of said act of incorporation, and irregularities in its incorporation were cured by another act of the legislature of the State of Texas approved September 4th, 1850, and its organization was thereby validated (Gen. Laws 1850, page- 13, 14); that by another act of the legislature of the State of Texas entitled "An act to amend the act to incorporate the Buffalo Bayou, Brazos & Colorado Railway Company," approved January 29th, 1853, said company was "invested with the right of locating, constructing, owning, and maintaining a railway commencing at a suitable point on Buffalo bayou, in the county of Harris, and thence running by such course and to such point or points at or near the Brazos and Colorado rivers or across the same as said company may deem advisable, with the privilege of making,
owning, and maintaining such branches to said road as
209 they may deem expedient," and said company was also, by said act, granted eight sections of land of six hundred and forty acres each for every mile of railway actually completed and ready for use, and provisions were made by said act for the inspection of the road as the same should be completed by the State engineer or a commissioner to be appointed by the governor and for the issuance of certificates for said lands upon the report from time to time made or to be made by such engineer (Special Laws 1853, page- 3–5); that by a general law passed by the legislature of the State of Texas entitled "An act to encourage the construction of railroads in Texas by donations of land," approved January 30th, 1854, there was granted to every railroad company chartered by the legislature of the State of Texas theretofore or thereafter constructing within the limits of Texas a section of twenty-five miles or more of railroad sixteen sections of land for every mile of road so constructed and put in running order, and provisions were made in said act for the survey and location of the lands thus granted (Gen. Laws 1854, page- 11–15); that by another special act of the legislature of the State of Texas approved February 4th, 1854 (Special Laws 1854, page 69), entitled "An act to amend an act incorporating the Buffalo Bayou, Brazos & Colorado Railroad Company," approved February eleventh, eighteen fifty, it was provided

"That the Buffalo Bayou, Brazos & Colorado Railroad Company shall be entitled to all the rights, privileges and benefits accruing from any general law or laws that have or may hereafter be passed by this State to encourage the constructing of railroads in the same manner and to the same extent as if the gauge of said road was the same now fixed, or which may be hereafter fixed upon by this State."

Whereby petitioners say that all the benefits of the general act of

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January 30th, 1854, above referred to were expressly conferred upon petitioner railway company, and there was by said general act of January 30th, 1854, and the special act of February 4th, 1854, granted to petitioner railway company by the State of Texas sixteen sections of land for every mile of road that it should construct; that by another special act of the legislature of the State of Texas, also approved February 4th, 1854, entitled "An act supplementary to an act to amend an act to incorporate the Buffalo Bayou, Brazos & Colorado Railroad Company passed at the present session of the legislature," it was provided that if said company should avail itself of the act to which said act was a supplement or accept any donation of land from the State,
it should not be entitled to receive such donation under the
210 provisions of that law or any law that had theretofore been
passed for its benefit for any portion of its road which should not be completed and ready for use within ten years from and after the passage of that act; and it was also provided that the company should restrict itself to an extension of its existing road to Austin, in the county of Travis, crossing the Brazos river at a point between the town of Richmond, in Fort Bend county, and Hidalgo Falls, in Washington county, with the right of extending its road from Austin to and connecting with any road running north of Austin toward the Pacific ocean, the connection to be made between the 96th and 98th parallel of longitude; and it was also provided that said company should have no right to build branches from its main line (Special Laws 1854, page 70); that by an act approved January 11th, 1862, entitled "An act for the relief of railroad companies" (Gen. Laws 1862, pages 46, 47), it was provided in effect that the failure of any railroad company in this State to complete any section or fraction of a section of its road, as required by then existing laws, should not operate as a forfeiture of its charter or of the lands to which it would be entitled under the provisions of an act entitled "An act to encourage the construction of railroads in Texas by donation of lands, approved January 30th, 1854," and the several acts supplementary thereto, provided such company should complete such section or fraction of a section as would entitle it to donations of land under then existing laws within two years after the close of the then prevailing war between the Confederate States and the United States; and by another act also approved January 11th, 1862 (Gen. Laws 1862, pages 43, 44), entitled "An act for the relief of companies incorporated for purposes of internal improvement by allowing them further time for performance on account of the pending war," it was provided in effect that the time of the continuance of the prevailing war between the Confederate States and the United States should not be computed against any internal improvement company in reckoning the period allowed them in their charters by any law, general or special, for the completion of any work contracted by them to do; that by a general act entitled "An act for the benefit of railroad companies," approved November 13th, 1866, it was, among other things, provided that "the grant
of sixteen sections of land to the mile to railroad companies
211 heretofore or hereafter constructing railroads in Texas shall

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be extended under the same restrictions and limitations heretofore provided by law for ten years after the passage of this act." (Gen. Laws 1866, page 212.)

Petitioners further represent that petitioner railway company, proceeding under its charter and the various acts of the legislature of the State of Texas above referred to, commenced, in due time after its incorporation, in 1850, the construction of its line of railway at Harrisburg, on Buffalo bayou, in Harris county, Texas, and had completed and put the same in running order in due time and as required by its charter and the laws of Texas; thence to Alleyton, in Colorado county, a distance of 79.7 miles, prior to July 1st, 1868, and had other parts of its line in process of construction; that the constitution of Texas adopted in 1869 and known as the "constitution of 1869" took effect on the date of its acceptance by Congress, which was March 30th, 1870, as decided in Grigsby *vs.* Peak, 57 Tex., 142, or on the date of its adoption, which was December 3rd, 1869, as subsequently decided in Peak *vs.* Swindell, 68 Tex., 242; but at all events petitioner company had completed and put in operation more than seventy-nine miles of its line of road and had under construction the remainder prior to the adoption of that constitution. Section 6, article X, of the constitution of 1869 reads as follows:

"The legislature shall not hereafter grant lands to any person or persons, nor shall any certificates for land be sold at the land office except to actual settlers upon the same, and in lots not exceeding one hundred and sixty acres."

That on the 27th day of July, 1870, the legislature of the State of Texas passed an act entitled "An act supplementary to the act to incorporate the Buffalo Bayou, Brazos & Colorado Railway Company and of the other special acts relating to said company" (Special Laws 1870, page- 45–49), whereby the name of petitioner railway company was changed to the "Galveston, Harrisburg & San Antonio Railway Company;" that said act also authorized petitioner railway company to consolidate with its existing railroad the bridge built by the Brazos Iron Bridge Company over the Brazos river at Richmond and the five miles of railroad, more or less, from the town of Alleyton to the town of Columbus, built under the charter granted to the Columbus Tap Railroad Company, including the bridge over the Colorado river at Columbus, and to extend
212 its existing line of railroad from Columbus, in Colorado county, to San Antonio, in the county of Bexar, within four years from the passage of the act, and thence to a terminus on the Rio Grande river by such route as the directors should deem most feasible, with a branch from a most suitable point to New Braunfels, in Comal county, or to connect with any line of railroad that might be constructed from San Antonio to the Rio Grande south of the latitude of the city of Austin and the Colorado river instead of building its own line beyond the point of said connection; and it was also authorized to connect with any line of railroad that might be constructed or under construction and designed to form a part

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of any railroad line to the Pacific south of the 35th parallel of latitude. By section 8 of said act it was provided as follows:

"SEC. 8. That in case it shall be made to appear to the governor that there has not been issued upon said railroad the full quantity of sixteen sections of land scrip for every mile of the same that was constructed and put in running order prior to the war of the late rebellion, in accordance with the provisions of the charter and of the general laws of the State, in force at the time, regulating railroads, there shall be issued to said new company said scrip to the amount of any such deficiency, notwithstanding said railroad may not have been constructed and completed at the rate of twenty-five miles each year after the construction of the first twenty-five miles, as provided in the act of January 30th, 1854."

And by section 11 of said act it was provided as follows:

"SEC. 11. That said new company shall be entitled to the same or similar rights and relief, except State aid in bonds, or endorsement of, or guaranty of interest on bonds, granted to or provided for any other railroad company by the legislature, and upon the same or similar terms and conditions, so far as such rights or relief are, in their character, applicable to said new company or its line, or lines of railroad."

And by section 12 of said act it was provided as follows:

"SECTION 12. That nothing in this act shall be so construed as to deprive any party interested, of the right to disprove any assumed fact stated in the preamble; provided, that nothing in this act contained shall be construed as reviving or renewing any land grant to said company for road hereafter to be completed, which it does not possess by existing law."

Other rights were conferred upon said company and burdensome obligations were imposed upon it by said act.

Petitioner railway company proceeded with the extension of its road west of the Colorado river and completed the same to the West Navidad river, a distance of twenty-five miles further, December 19th, 1873, and completed an additional twenty-five miles June 25th, 1874, and an additional twenty-five miles January 16th, 1875; an additional twenty-five miles July 12th, 1875; an additional twenty-five miles October 27th, 1876, and the whole line between the Colorado river and the city of San Antonio was completed and put in operation February
213 13th, 1877, and in due time thereafter the entire line was completed westward to El Paso, Texas, a distance of 623.14 miles. The road was inspected from time to time as sections of twenty-five miles were completed by engineers appointed by the governor, and upon the report of the engineer and approval of the same by the governor the commissioner of the general land office issued to the company certificates for land at the rate of sixteen sections of six hundred and forty acres each per mile of road as authorized by the aforesaid act of January 30th, 1854, and Nov. 13, 1866, for that part of the road between the Colorado river and the city of San Antonio, as certificates had been theretofore issued at the same rate for that part of the road from Harrisburg to the Colorado river,

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but the State refused to issue certificates for that part of the line from San Antonio to El Paso, six hundred and twenty-three and fourteen one-hundredths miles in length, although a part of it had been inspected by the State engineer under the direction of the governor, the refusal to issue certificates for that part of the line being based upon the act entitled "An act to repeal all laws granting lands or land certificates to any person, firm, corporation, or company for the construction of railroads, canals, and ditches," approved April 22nd, 1882. As the certificates were issued to the company the lands were surveyed at large expense and certificates located thereon in the manner provided by law, and patents were also issued for a large part thereof, and the company has ever since paid to the State all taxes *and* which were regularly assessed thereon.

Section 6, article X, of the constitution of 1869, above quoted, was amended by a resolution passed by the legislature May 17th, 1871 (Gen. Laws 1871, page 60), and the amendment was adopted by a vote of the people on the 5th, 6th, 7th, and 8th days of November, 1872, and was ratified by the legislature March 19th, 1873 (Gen. Laws 1873, page- 224, 225), and the amendment became effective on that date and removed the restriction imposed upon the grant of lands in aid of railroads.

Petitioner railway company in said suit in the district court of Brewster county in due time specially set up and claimed and throughout the subsequent proceedings in said cause in appropriate manner specially claimed and contended that by the acceptance of the various acts of the legislature of the State of Texas hereinbefore mentioned and the land grant thereby made to it in consid-
214 eration of the construction of its road, and by promptly entering upon and in due time constructing and completing an important and valuable part of its line at very large expense before the adoption of the constitution of 1869, and by subsequently completing in due time its entire line, petitioner railway company had acquired, under such laws and by the construction of its line, a contract and vested right to the lands granted to it by the State as aforesaid and earned by it, which contract and right could not be impaired or divested by the constitution of Texas adopted in 1869 or any other pretended law or act of said State contrary to the Constitution of the United States, especially article 1, section 10, thereof, which denies to any State power to pass any law impairing the obligation of contracts, and section 1, article XIV, of the amendments thereof, prohibiting any State from depriving any person of property without due process of law (Davis *vs.* Gray, 16 Wall., 203); but petitioners say that the said district court of Brewster county and the said court of civil appeals, by the judgment complained of in said suit, in effect decided and holds that the said constitution of 1869 operated to deprive petitioner railway company of the said lands, thus holding, in effect, that the said constitution of Texas adopted in 1869 impaired the contract and vested right aforesaid and deprived petitioner railway company of its said property without due process of law, contrary to the Constitution of the United States, and especially the provisions thereof hereinbefore referred to;

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and, by way of special illustration of such decision and holding, petitioners say that the supreme court of Texas, in their opinion delivered March 19th, 1896, in this cause, answering questions in this cause certified for their decision by the said court of civil appeals, expressly ruled and decided for the government of said court of civil appeals, in effect, that change of the route of petitioner's road authorized by the aforesaid act of July 27th, 1870, or rather the removal thereby of the restriction with respect to its route imposed by the second act of February 4th, 1854, above mentioned, would have carried with it the right of petitioner railway company, under its charter and the laws aforesaid passed prior to the adoption of the constitution of 1869, to the grant under such charter and laws of sixteen sections of land for each mile of road it should construct and did construct along said line but for the adoption of the
215 constitution of 1869, and that the adoption of said constitution deprived petitioner railway company of such lands (the same being the lands in controversy) to which it was entitled under its charter and the laws passed prior to the adoption of said constitution and which it had earned by the construction at large expense of an important part of its line, the said court thereby holding, in effect, that said constitution impaired petitioner railway company's contract and vested right, but that nevertheless said constitution was valid, and the same decision was made by the said court of civil appeals.

Petitioners further represent that on the 16th day of August, 1876, the legislature of the State of Texas, as it was by sec. 3, art. XIV, and other provisions of the constitution of 1876 expressly authorized to do, passed a general law entitled "An act to encourage the construction of railroads in Texas by donations of land", whereby it was provided that any railroad company theretofore chartered or which should be thereafter organized under the general laws of the State should, upon the completion of a section of ten miles or more of its road, be entitled to receive, and there was thereby granted to every such railroad company from the State, sixteen sections of land for every mile of its road so completed and put in good running order, and said act prescribed the usual formalities for ascertaining compliance on the part of the railroad companies with the provisions of the act, the issuance of certificates, etc. (Gen. Laws 1876, page- 153–154). After the passage of said act petitioner railway company constructed and completed that part of its line between the Guadalupe river and San Antonio, a distance of about thirty-six miles, for which it received certificates and lands from the State; and thereafter and while said act was in force and before the attempt to repeal the same by the act approved April 22nd, 1882, hereinbefore mentioned, said company extended and completed its line of road and put the same in good running order from the city of San Antonio to El Paso, a distance of 623.14 miles, for which the State refused to issue said company certificates or give it lands, because of the passage of the said repealing act of April 22, 1882, the said company having completed its said road prior to the passage of said last-mentioned act. Petitioner railway company, by its

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answer filed in due time and form in this cause in the district court of Brewster county, alleged the construction and com-
216 pletion of its said road westward from San Antonio to the Rio Grande river at El Paso, a distance of 623.14 miles, prior to the passage of said act of April 22, 1882, and that it had thereby earned and was entitled to lands from the State at the rate of sixteen sections of six hundred and forty acres each per mile of completed road, amounting in the aggregate to 6,380,953 acres; that the governor of the State, in obedience to the law, appointed an engineer to inspect a section of said road, who inspected the same for a distance of eleven miles west of San Antonio and reported that the same had been completed and was in good running order, as required by law, but that the governor thereafter refused to appoint any engineer to inspect the rest of said road, and the governor and the commissioner of the general land office had ever since refused to issue petitioner railway company any certificates for the lands to which it was entitled for the construction of said 623.14 miles west of San Antonio, basing their refusal upon the aforesaid act of April 22nd, 1882, which they claimed repealed the laws entitling said company to said land; that by the construction and completion of said 623.14 miles of said railway while said law was in force petitioner railway company had acquired a contract and vested right to said lands which could not be impaired or taken away by the said act of April 22nd, 1882, and that said last-mentioned act, passed after the acceptance of the State's offer, after the construction in reliance thereon at enormous expense of said 623.14 miles of road, after the State had secured the benefits of the quasi-public work, the contemplated consideration of the land grant was, so far as it affected petitioner's right, unconstitutional, null, and void, because it sought to impair the obligation of the contract, in violation of section X, article 1, of the Constitution of the United States, and amounted to a deprivation of property without due process of law, in violation of section 1 of the fourteenth amendment of said Constitution; and petitioner railway company in said answer prayed in effect that the State's suit be dismissed, and also in effect that the court adjudge and decree that the petitioner railway company had earned and was entitled to receive from the State of Texas sixteen sections of land for each of the 623.14 miles of road it had constructed west of San Antonio, and also that it be held and decreed to be entitled to the land described in the State's petition and sued for herein by
217 reason of the construction of said 623.14 miles of road, if not otherwise entitled thereto, claiming that it had also acquired a contract and vested right to said lands under the act of August 16th, 1876, if not otherwise, which contract and right was sought to be impaired and taken away by the aforesaid act of April 22, 1882, contrary to the provision of the Constitution of the United States hereinbefore referred to; but petitioners say that the said district court of Brewster county and the said court of civil appeals by the judgment complained of in said suit in effect decided and held that petitioner railway company was not entitled to said lands, thereby holding and deciding in effect that the aforesaid act of the

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legislature of the State of Texas approved April 22nd, 1882, operated to deprive petitioner railway company of the said lands, thus holding that the said act impaired the contract and vested right and deprived petitioner of its said property without due process of law, contrary to the Constitution of the United States, and especially the provisions thereof hereinbefore referred to.

Petitioners further represent that it appeared from the plaintiff's statement of its own claim as contained in its petition in this suit in the district court in and for Brewster county that this suit was and is one arising under the Constitution and laws of the United States, in this: Plaintiff alleged that petitioner railway company was originally incorporated by the special act of the legislature of Texas approved February 11th, 1850, and hereinbefore referred to; that the act of July 27th, 1870, hereinbefore referred to, was passed by the legislature of the State of Texas, and that at the time said act was passed "the constitution of 1869–'70 forbade the legislature from authorizing or granting lands to railway companies for the construction of their roads, etc.," and also alleged that the issuance of certificates described in plaintiff's petition was in violation of the constitution and laws of the State, etc. Said petition also referred to the special acts approved February 4th, 1854, hereinbefore mentioned. It sufficiently appeared from plaintiff's petition, and also from the aforesaid act of July 27th, 1870, specially pleaded therein, that that part of petitioner railway company's line of railway extended to Alleyton had been constructed and was in operation prior to the constitu-
218 tion of 1869. It also appeared from the special acts incorporating and relating to petitioner, as pleaded by the State, and from the general laws of January 30th, 1854, referred to in and made a part of such special acts, that petitioner railway company was entitled to sixteen sections of land for each mile of road it should construct unless the grant thus made had been in some manner withdrawn, and the constitution of 1869 was specially set up by the State in its petition as a reason why petitioner railway company was not entitled to the grant for the construction of its line to San Antonio. Petitioner railway company in due time presented to the said district court its application to remove this cause into the Federal court upon the ground, in effect, that the suit was one arising under the Constitution and laws of the United States, claiming that petitioner had proceeded, under its charter and the acts relating to it, to construct and had constructed, prior to the adoption of the constitution of 1869, an important part of its line at large expense, and had acquired thereby and under the laws above mentioned a contract and vested right to the land grant in question, and that the constitution of 1869, pleaded and referred to in the State's petition, impaired the obligation of such contract, in violation of section X, article 1, of the Constitution of the United States, and deprived petitioner railway company of property without due process of law, in violation of section 1 of the fourteenth amendment of said Constitution; but said application to remove said cause into the circuit court of the United States was by said



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district court of Brewster county denied and refused, and said district court proceeded with the trial of the same; which action and ruling of said district court was, on appeal therefrom as aforesaid by petitioner railway company, affirmed by the said court of civil appeals by the judgment herein complained of, whereby petitioners say that said court decided against the title, right, privilege, and immunity so specially set up and claimed in said suit by petitioners under the Constitution and statutes of the United States and the commission held and authority exercised under the United States.

Your petitioners refer to the assignment of errors filed herewith and pray that the same be considered for the purposes of this
219 petition as a part hereof, and further pray that a writ of error may be allowed and issued herein to the said court of civil appeals in and for the fourth supreme judicial district of the State of Texas, which now has the record in said suit, for the removal of said cause into the Supreme Court of the United States, to the end that the errors in said judgment and in the proceedings in said cause may be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, and that the transcript of the record, proceedings, and papers in said cause, duly authenticated, may be sent to the said Supreme Court of the United States.

T. D. COBBS,
J. P. BLAIR,
JAS. A. BAKER,
R. S. LOVETT,
*Attorneys for the Galveston, Harrisburg & San Antonio Railway Company, E. P. Hill, and W. N. Shaw, Petitioners.*

Allowed by—
J. H. JAMES,
*Chief Justice of the Court of Civil Appeals in and for the Fourth Supreme Judicial District of Texas.*

Endorsed: No. 385. The Galveston, Harrisburg & San Antonio Railway Co. *et al. vs.* The State of Texas. Petition to the United States Supreme Court for writ of error. Filed in the court of civil appeals, at San Antonio, Texas, June 24, 1897. H. E. Hildebrand, clerk.

*Writ of Error Bond.*

Know all men by these presents that we, The Galveston, Harrisburg & San Antonio Railway Company, E. P. Hill, and W. N. Shaw, as principals, and C. C. Gibbs and D. Sullivan, as sureties, are held and firmly bound unto the State of Texas in the full and just sum of ten thousand dollars, to be paid to the said State of Texas,
220 its successors or assigns; for which payment, well and truly to be made, we bind ourselves and each of us, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 24th day of June, in the year of our Lord one thousand eight hundred and ninety-seven.

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Whereas lately, at a term of the court of civil appeals in and for the fourth supreme judicial district of Texas, in a suit depending in said court between The Galveston, Harrisburg & San Antonio Railway Company, appellant, and The State of Texas, appellee, a judgment was rendered against the said Galveston, Harrisburg & San Antonio Railway Company, appellant, and E. P. Hill and W. N. Shaw, the sureties on its appeal bond, and The Galveston, Harrisburg & San Antonio Railway Company and E. P. Hill and W. N. Shaw have obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said State of Texas, citing and admonishing said State to be and appear at a Supreme Court of the United States, to be holden at Washington, within thirty days from the date hereof:

Now, the condition of the above obligation is such that if the said Galveston, Harrisburg & San Antonio Railway Company, E. P. Hill, and W. N. Shaw shall prosecute their writ of error to effect and answer all damages and costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY,
E. P. HILL, AND
W. N. SHAW,
By T. D. COBBS AND
J. P. BLAIR, *Their Attorneys of Record.*
C. C. GIBBS.
D. SULLIVAN.

Sealed and delivered in the presence of—
——— ———.
——— ———.

Approved by—
J. H. JAMES,
*Chief Justice of the Court of Civil Appeals of the*
221 *Fourth Supreme Judicial District of Texas.*

Endorsed: G., H. & S. A. R'y Co. *et al.*, appellants, *vs.* The State of Texas, appellee. Writ of error bond. Filed in the court of civil appeals, at San Antonio, Texas, June 24, 1897. H. E. Hildebrand, clerk.

*Duplicate Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable judges of the court of civil appeals in and for the fourth supreme judicial district of the State of Texas, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of an appeal which is in the said court of civil ap-

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peals in and for the fourth supreme judicial district of Texas, before you or some of you, being the highest court of the said State in which a decision could be had in said suit between The Galveston, Harrisburg & San Antonio Railway Company, appellant, and The State of Texas, appellee, and E. P. Hill and W. N. Shaw, as sureties, on the appeal bond of said appellant, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States and the decision was against their validity, or wherein was drawn in question the validity of a statute of or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of their validity, or wherein a title, right, privilege, or immunity was claimed under the Constitution or a treaty or statute of or commission held or authority exercised under the United States and the decision was against the title, right, privilege, or immunity specially set up or claimed by either party under such Constitution, treaty, statute, commission, or authority, a manifest error has happened, to the great damage of the said The Galveston, Harrisburg & San Antonio Railway Company and E. P. Hill and W. N. Shaw, the sureties on its appeal bond, as by their complaint appears, we, being
222 willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court, at Washington, within thirty days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 24th day of June, in the year of our Lord one thousand eight hundred and ninety-seven.

D. H. HART,
*Clerk of the Circuit Court of the United States*
*for the Western District of Texas.*
[SEAL.] By —— ——, *Deputy.*

Allowed by—

J. H. JAMES,
*Chief Justice of the Court of Civil Appeals*
*of the Fourth Supreme Judicial District of Texas.*

Endorsed: G., H. & S. A. R'y Co. *et al.*, appellants, *vs.* State of Texas, appellee. Duplicate writ of error. Filed in the court of civil appeals, at San Antonio, Texas, June 24, 1897. H. E. Hildebrand, clerk.

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*Assignments of Error.*

In the Court of Civil Appeals, Fourth Supreme Judicial District of Texas.

THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY *et al.*
*vs.*
223 THE STATE OF TEXAS. } No. 385.

Now come plaintiffs in error in the above-entitled cause, The Galveston, Harrisburg & San Antonio Railway Company, E. P. Hill, and W. N. Shaw, and on writ of error from the Supreme Court of the United States say that in the record and proceedings in said cause there is manifest error, which they assign as follows:

First.

The said court of civil appeals erred in overruling and holding not well taken appellant's first and second assignments of error, each of which complained, in effect, of the action and ruling of the district court of Brewster county in refusing appellant's application to remove this cause into the circuit court of the United States and in proceeding with this cause after the presentation of the petition and bond for such removal.

Second.

The said court of civil appeals erred in overruling and holding not well taken appellant's fifth assignment of error and in deciding that the special acts of the legislature of the State of Texas approved February 11th, 1850; September 4th, 1850; January 29th, 1853; February 4th, 1854, and July 27th, 1870, chartering and amending the charter of plaintiff in error railway company, and the general acts of the legislature of the State of Texas approved January 30th, 1854, January 11th, 1862, and November 13th, 1866, and the acceptance of said laws, and the construction by plaintiff in error railway company at large expense of an important part of its line of railway prior to the adoption of the constitution of Texas in 1869, and the completion of its entire line subsequently and in due time did not constitute a valid contract between the State of Texas and said railway company, entitling said railway company and creating in it a vested right to lands granted by said laws and earned by said railway company thereunder, including the lands involved in this suit, and in holding and deciding in effect that said contract could be and was impaired and the right of said railway company to said land was divested by the constitution of Texas adopted in 1869, contrary to and in violation of the Constitution of the United States, and especially article 1, section 10, thereof, and section 1, article XIV, of the amendments thereof.

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224 Third.

The said court of civil appeals erred in not deciding that the special acts of the legislature of the State of Texas approved February 11th, 1850; September 4th, 1850; January 29th, 1853; February 4th, 1854, and July 27th, 1870, chartering and amending the charter of plaintiff in error railway co npany, and the general acts of the legislature of the State of Texas approved January 30th, 1854, January 11th, 1862, and November 13th, 1866, and the acceptance of said laws, and the construction by plaintiff in error railway company at large expense of an important part of its line of railway prior to the adoption of the constitution of Texas in 1869, and the completion of its entire line subsequently and in due time constituted a valid contract between the State of Texas and said railway company entitling said railway company and creating in it a vested right to the lands granted by said laws and earned by said railway company thereunder, including the lands involved in this suit, and in not holding and deciding in effect that said contract could not be and was not impaired and the right of said railway company to said land was not divested by the constitution of Texas adopted in 1869, and that in so far as said State constitution attempted to impair such contract and divest such right the same was and is contrary to and in violation of the Constitution of the United States, and especially article 1, section X thereof, and section 1 of article XIV of the amendment- thereof, and therefore void.

Fourth.

The said court of civil appeals erred in overruling and holding not well taken appellant's ninth assignment of error and in deciding that plaintiff in error railway company had not, under the general act of the legislature of the State of Texas approved August 16th, 1876, by constructing and completing its road between San Antonio and El Paso, a distance of 623 miles, in consideration of the grant of sixteen sections of land made by said act for each mile of road so constructed, acquired a contract and vested right to and was entitled to hold under the grant thus made the lands involved in this suit, which contract and vested right could not be impaired or divested by the general act of the legislature of the State of Texas approved April 22, 1882, and in not deciding that the last-mentioned act, which attempted to repeal the laws granting such lands to said
225 railway company, was and is contrary to and in violation of the Constitution of the United States, and especially article 1 of section X thereof and section 1 of article XIV of the amendments thereof, and could not, therefore, impair said company's contract right or divest it of said lands.

Fifth.

Said court of civil appeals erred in overruling and holding not well taken appellant's tenth assignment of error and in deciding that plaintiff in error railway company had not, under the general act of the legislature of the State of Texas approved August 16th,

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1876, by constructing and completing its road between San Antonio and El Paso, a distance of 623 miles, in consideration of the grant of sixteen sections of land made by said act for each mile of road so constructed, acquired a contract and vested right to and was entitled to hold under the grant thus made the lands involved in this suit, which contract and vested right could not be impaired or divested by the general act of the legislature of the State of Texas approved April 22, 1882, and in not deciding that the last-mentioned act, which attempted to repeal the laws granting such lands to said railway company, was and is contrary to and in violation of the Constitution of the United States, and especially article 1 of section X thereof and section 1 of article XIV of the amendments thereof, and could not, therefore, impair said company's contract right or divest it of said lands.

Sixth.

Said court of civil appeals erred in overruling and holding not well taken appellant's eleventh assignment of error and in deciding that plaintiff in error railway company had not, under the general act of the legislature of the State of Texas approved August 16th, 1876, by constructing and completing its road between San Antonio and El Paso, a distance of 623 miles, in consideration of the grant of sixteen sections of land made by said act for each mile of road so constructed, acquired a contract and vested right to and was entitled to hold under the grant thus made the lands involved in this suit, which contract and vested right could not be impaired or divested by the general act of the legislature of the State of Texas approved April 22, 1882, and in not deciding that the last-mentioned act, which attempted to repeal the laws granting such land to said railway company, was and is contrary to and in violation of the
226 Constitution of the United States, and especially article 1 of section X thereof and section 1 of article XIV of the amendments thereof, and could not, therefore, impair said company's contract right or divest it of said lands.

Seventh.

Said court of civil appeals erred in overruling and holding not well taken appellant's thirteenth assignment of error and in deciding that plaintiff in error railway company had not, under the general act of the legislature of the State of Texas approved August 16th, 1876, by constructing and completing its road between San Antonio and El Paso, a distance of 623 miles, in consideration of the grant of sixteen sections of land made by said act for each mile of road so constructed, acquired a contract and vested right to and was entitled to hold under the grant thus made the lands involved in this suit, which contract and vested right could not be impaired or divested by the general act of the legislature of the State of Texas approved April 22, 1882, and in not deciding that the last-mentioned act, which attempted to repeal the laws granting such lands to said railway company, was and is contrary to and in violation of the Constitution of the United States, and especially article 1 of sec-

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tion X thereof and section 1 of article XIV of the amendments thereof, and could not, therefore, impair said company's contract right or divest it of said lands.

Eighth.

Said court of civil appeals erred in overruling and holding not well taken appellant's fourteenth assignment of error and in deciding that plaintiff in error railway company had not, under the general act of the legislature of the State of Texas approved August 16th, 1876, by constructing and completing its road between San Antonio and El Paso, a distance of 623 miles, in consideration of the grant of sixteen sections of land made by said act for each mile of road so constructed, acquired a contract and vested right to and was entitled to hold under the grant thus made the lands involved in this suit, which contract and vested right could not be impaired or divested by the general act of the legislature of the State of Texas approved April 22, 1882, and in not deciding that the last-mentioned act, which attempted to repeal the laws granting such lands to said railway company, was and is contrary to and in violation of the Constitution of the United States, and especially
227 article 1 of section X thereof and section 1 of article XIV of the amendments thereof, and could not, therefore, impair said company's contract right or divest it of said lands.

Ninth.

Said court of civil appeals erred in overruling and holding not well taken appellant's fifteenth assignment of error and in deciding that plaintiff in error railway company had not, under the general act of the legislature of the State of Texas approved August 16th, 1876, by constructing and completing its road between San Antonio and El Paso, a distance of 623 miles, in consideration of the grant of sixteen sections of land made by said act for each mile of road so constructed, acquired a contract and vested right to and was entitled to hold under the grant thus made the lands involved in this suit, which contract and vested right could not be impaired or divested by the general act of the legislature of the State of Texas approved April 22, 1882, and in not deciding that the last-mentioned act, which attempted to repeal the laws granting such lands to said railway company, was and is contrary to and in violation of the Constitution of the United States, and especially article 1, section X, and section 1 of article XIV of the amendments thereof, and could not, therefore, impair such company's contract right or divest it of said lands.

Tenth.

Said court of civil appeals erred in overruling and holding not well taken appellant's seventeenth assignment of error and in deciding that plaintiff in error railway company had not, under the general act of the legislature of the State of Texas approved August 16, 1876, by constructing and completing its road between San Antonio and

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El Paso, a distance of 623 miles, in consideration of the grant of sixteen sections of land made by said act for each mile of road so constructed, acquired a contract and vested right to and was entitled to hold under the grant thus made the lands involved in this suit, which contract and vested right could not be impaired or divested by the general act of the legislature of the State of Texas approved April 22, 1882, and in not deciding that the last-mentioned act, which attempted to repeal the laws granting such lands to said railway company, was and is contrary to and in violation of the Constitution of the United States, and especially article 1 of section X thereof, and section 1 of article XIV of the amendments
228 thereof, and could not, therefore, impair said company's contract right or divest it of said lands.

Eleventh.

Said court of civil appeals erred in holding and deciding that plaintiff in error railway company had not, under the general act of the legislature of the State of Texas approved August 16th, 1876, by constructing its road between San Antonio and El Paso, a distance of 623 miles, in consideration of the grant of sixteen sections of land made by said act for each mile of road so constructed, acquired a contract and vested right to and was entitled to hold under the grant thus made the lands involved in this suit, which contract and vested right could not be impaired or divested by the general act of the legislature of the State of Texas approved April 22, 1882, and in not deciding that the last-mentioned act, which attempted to repeal the laws granting such lands to said railway company, was and is contrary to and in violation of the Constitution of the United States, and especially article 1 of section X thereof and section 1 of article XIV of the amendments thereof, and could not, therefore, impair said company's contract right or divest it of said lands.

Twelfth.

Said court of civil appeals erred in affirming the judgment of the district court in and for Brewster county, whereby the State of Texas had and recovered the said lands from plaintiffs in error, and in not reversing the said judgment.

Wherefore The Galveston, Harrisburg & San Antonio Railway Company, E. P. Hill, and W. N. Shaw, plaintiff- in error, pray that the judgment of the said court of civil appeals be reversed and said cause be remanded, and for such further proceedings as law and justice may require.

J. P. BLAIR,
T. D. COBBS,
JAS. A. BAKER,
R. S. LOVETT,

*Attorneys for The Galveston, Harrisburg & San Antonio Railway Company, E. P. Hill, and W. N. Shaw, Plaintiffs in Error.*



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Endorsed: No. 385. G., H. & S. A. R'y Co. *et al. vs.* The State of Texas. Assignments of error Filed in the court of civil ap-
229 peals, at San Antonio, Texas, June 24, 1897. H. E. Hildebrand, clerk.

*Citation in Error.*

UNITED STATES OF AMERICA, *ss:*

To the State of Texas, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the court of civil appeals in and for the fourth supreme judicial district of Texas, wherein The Galveston, Harrisburg & San Antonio Railway Company, E. P. Hill, and W. N. Shaw are plaintiffs in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against said plaintiffs in error, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this the 24th day of June, in the year of our Lord one thousand eight hundred and ninety-seven.

J. H. JAMES,
*Chief Justice of the Court of Civil Appeals for the Fourth Supreme Judicial District of Texas.*

Came to hand on the 5th day of July, 1897, and executed on the 6th day of July, 1897, by delivering, at Austin, Texas, in my district, to C. A. Culberson, governor of the State of Texas, and to M. M. Crane, attorney general of the State of Texas, each in person a true copy of this writ.

R. C. WARE,
*U. S. Marshal,*
By FRED. PECK, *Deputy.*

Serving 2 copies of citation, $4.00.

Endorsed: Galveston, Harrisburg & San Antonio Railway Company, plaintiff in error, *vs.* The State of Texas, defendant in
230 error. Citation on writ of error. Filed in the court of civil appeals, at San Antonio, Texas, July 10, 1897. H. E. Hildebrand, clerk.

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*Bill of Costs.*

Cost bill in court of civil appeals, San Antonio, Texas.

G., H. & S. A. R'y Co., Appellant,
*vs.*
STATE OF TEXAS, Appellee.
No. 385. From Brewster County.

Name of principals—G., H. & S. A. R'y Co.
Names of sureties—E. P. Hill, W. N. Shaw.
Record filed December 13, 1893.
Disposed of June 3, 1896.
How decided—affirmed.
Opinion by Fly, A. J.

| | | |
|---|---|---|
| Filing record | $ | 50 |
| Docketing cause | | 50 |
| Appearances | 1 | 00 |
| Filing briefs | 2 | 00 |
| Filing and entering motion for rehearing | | 35 |
| Orders | 2 | 50 |
| Precept | 1 | 00 |
| Filing extra papers | 1 | 30 |
| Making certified copy of motion | 5 | 50 |
| Judgment | 1 | 00 |
| Filing opinion | | 10 |
| Taxing costs | | 50 |
| Certified copy bill of costs | 1 | 00 |
| Certificate, with seal | | 50 |
| Mandate | 1 | 50 |
| Recording | 3 | 50 |
| Notices | 5 | 00 |
| Clerk's costs at Austin supreme court on cert. question | 28 | 55 |
| Sheriff's fees | 1 | 00 |
| 231 Transcript to supreme court of Texas | 1 | 50 |
| Express charges to and from supreme court | | 70 |
| Costs in supreme court of Texas on application for writ of error | 8 | 00 |
| Total | $67 | 50 |
| Transcript to Supreme Court of the United States | 150 | 00 |
| Total | $217 | 50 |

THE STATE OF TEXAS:

I, H. E. Hildebrand, clerk of the court of civil appeals of Texas, at San Antonio, hereby certify that the above and foregoing bill of costs for the sum of $217.50 *dollars* is true and correct.

Given under my hand and seal of office this the 10th day of July, A. D. 1897.

H. E. HILDEBRAND, *Clerk.*

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*Clerk's Certificate to Transcript.*

THE STATE OF TEXAS, }
*County of Bexar.* }

I, H. E. Hildebrand, clerk of the court of civil appeals, 4th supreme judicial district, at San Antonio, Texas, do hereby certify and return in obedience to the writ of error herein granted that the above and foregoing is a true and complete transcript of the record of all the proceedings had in said court and all of the papers filed wherein The Galveston, Harrisburg & San Antonio Railway Company was appellant and The State of Texas was appellee, as the same appear from the records and files of said court now remaining in my custody and control.

I further certify that the original writ of error and
232 citation, with proof of service, have been returned with this record to the clerk of the Supreme Court of the United States.

I further certify that a copy of the writ of error has been retained in my office for the defendant in error.

To certify all which witness my official signature and seal of said court, at office, in the city of San Antonio, this the 10th day of July, A. D. 1897.

[Seal Court of Civil Appeals of the State of Texas.]

H. E. HILDEBRAND,
*Clerk Court of Civil Appeals, Fourth Supreme Judicial District of Texas, at San Antonio.*

233 In the Court of Civil Appeals, Fourth Supreme Judicial District of Texas.

THE GALVESTON, HARRISBURG & SAN ANTONIO RAILWAY COMPANY *et al.* *vs.* THE STATE OF TEXAS. } No. 385.

To any justice of the Supreme Court of the United States or the chief justice of the court of civil appeals in and for the fourth supreme judicial district of Texas:

Your petitioners, The Galveston, Harrisburg & San Antonio Railway Company, a railroad corporation created under and by virtue of the laws of the State of Texas, and E. P. Hill and W. N. Shaw, both residents of Harris county, Texas, respectfully represent that in the above numbered and entitled cause, then pending therein on appeal from the district court of Brewster county, wherein petitioner The Galveston, Harrisburg & San Antonio Railway Company was the only party appellant and The State of Texas was the only appellee, and petitioners E. P. Hill and W. N. Shaw were the sureties and the only sureties on the appeal bond of appellant, the court of

vil appeals in and for the fourth supreme judicial district of the ate of Texas, on the 29th day of April, 1896, affirmed a judgment said cause rendered on the 13th day of September, 1893, by the district court in and for Brewster county, Texas, in favor of
4 The State of Texas, as plaintiff, and against petitioner The Galveston, Harrisburg & San Antonio Railway Company, as fendant, in said district court, and said court of civil appeals at e same time rendered judgment against petitioners Hill and Shaw, well as said railway company, for all costs of suit; that thereafter d in due time petitioner railway company filed in the said court civil appeals its motion for a rehearing, which was thereafter, to t, on the third day of June, 1896, by said court overruled and de- ed; that thereafter and in due time petitioner railway company plied in due form and as authorized by law to the supreme court the State of Texas for a writ of error in said cause to the said urt of civil appeals; which application was thereafter, to wit, on e 6th day of May, 1897, by said supreme court denied and the rit of error prayed for by petitioner railway company refused; hereupon the said judgment of the said court of civil appeals, hich is the highest court of said State in which a decision in said it could be had, became and is final.

And petitioners say that they are aggrieved by the said judgment d the proceedings in said suit, and that in the said judgment and roceedings had prior thereunto in said cause errors were com- itted to the prejudice of petitioners, because they say there was in id suit drawn in question the validity of a statute of or an author- y exercised under the United States and the decision in such suit as against their validity, and there was drawn in question the alidity of a statute or constitution of or an authority exercised nder a State, on the ground of their being repugnant to the Con- itution or laws of the United States, and the decision in said suit as in favor of their validity, and that titles, rights, privileges, and mmunities were in said suit claimed by petitioners under the con- itution and statutes of and commissions held and an authority xercised under the United States and the decision in said suit was against the titles, rights, privileges, and immunities specially
35 set up and claimed therein by petitioners under such constitution, statutes, commissions, and authority, as will herein- ter more fully appear.

Your petitioners say that this suit was instituted in the district ourt of Brewster county, Texas, by The State of Texas, as plaintiff, gainst The Galveston, Harrisburg & San Antonio Railway Com- any, petitioner, as defendant, for the recovery of thirteen hundred nd eighty-three sections, tracts, or parcels of land, containing in he aggregate, say, 879,078$\frac{1}{10}$ acres, situated in the counties of Jeff avis, Presidio, Brewster, Kimble, San Saba, Val Verde, Crockett, cCulloch, Pecos, Buchel, Reeves, Schleicher, Sutton, and Zavalla, hich had been theretofore granted to petitioner railway company y the State of Texas out of the unappropriated public domain of id State, under laws of said State hereinafter referred to, to aid and nduce said railway company to construct the lines of railway which

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it was authorized by its charter and said laws to construct; that the ground upon which the State of Texas in said suit sought to recover said lands was, in effect, that at the time the road for which they were granted was constructed by petitioner railway company and at the time the certificates for said lands were issued and located and said lands were acquired and patents for a large part thereof were issued the laws of said State granting said lands to said railway company had been, in effect, repealed by the constitution of 1869, and that there was then no valid law of the State making or authorizing such grant.

Petitioners further represent that petitioner railway company was originally incorporated under the name of the "Buffalo Bayou, Brazos & Colorado Railway Company" by an act of the legislature of the State of Texas entitled "An act to incorporate the Buffalo Bayou, Brazos & Colorado Railroad Company," approved February 11th, 1850, with authority to locate, construct, own, and maintain a railway commencing at a suitable point on Buffalo bayou
236 between Lynchburg and Houston, in the county of Harris, and thence running by such course and to such point at or near the Brazos river between the towns of Richmond and Washington, inclusive, as said company should deem most suitable, with the privilege of making, owning, and maintaining such branches of said railway as it might deem expedient (Gen. Laws 1850, page-194–198); that said company was thereafter organized in pursuance of said act of incorporation and irregularities in its incorporation were cured by another act of the legislature of the State of Texas approved September 4th, 1850, and its organization was thereby validated (Gen. Laws 1850, page- 13, 14); that by another act of the legislature of the State of Texas entitled "An act to amend the act to incorporate the Buffalo Bayou, Brazos & Colorado Railway Company," approved January 29th, 1853, said company was "invested with the right of locating, constructing, owning, and maintaining a railway commencing at a suitable point on Buffalo bayou, in the county of Harris, and thence running by such course and to such point or points at or near the Brazos and Colorado rivers, or across the same, as said company may deem advisable, with the privilege of making, owning, and maintaining such branches to said road as they may deem expedient," and said company was also by said act granted eight sections of land of six hundred and forty acres each for every mile of railway actually completed and ready for use, and provisions were made by said act for the inspection of the road as the same should be completed by the State engineer or a commissioner to be appointed by the governor and for the issuance of certificates for said lands upon the report from time to time made or to be made by such engineer (Special Laws 1853, page- 3–5); that by a general law passed by the legislature of the State of Texas entitled "An act to encourage the construction of railroads in Texas by donations of land," approved January 30th, 1854, there
237 was granted to every railroad company chartered by the legislature of the State of Texas theretofore or thereafter constructing within the limits of Texas a section of twenty-five miles

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or more of railroad sixteen sections of land for every mile of road so constructed and put in running order, and provisions were made in said act for the survey and location of the lands thus granted (Gen. Laws 1854, page- 11–15); that by another special act of the legislature of the State of Texas approved February 4th, 1854 (Special Laws 1854, page 69), entitled "An act to amend an act incorporating the Buffalo Bayou, Brazos & Colorado Railroad Company, approved February eleventh, eighteen fifty," it was provided—

"That the Buffalo Bayou, Brazos & Colorado Railroad Company shall be entitled to all the rights, privileges and benefits accruing from any general law or laws that have or may hereafter be passed by this State to encourage the constructing of railroads in the same manner and to the same extent as if the gauge of said road was the same now fixed, or which may be hereafter fixed upon by this State,"

Whereby petitioners say that all the benefits of the general act of January 30th, 1854, above referred to, were expressly conferred upon petitioner railway company, and there was by said general act of January 30th, 1854, and the special act of February 4th, 1854, granted to petitioner railway company by the State of Texas sixteen sections of land for every mile of road that it should construct; that by another special act of the legislature of the State of Texas, also approved February 4th, 1854, entitled "An act supplementary to an act to amend an act to incorporate the Buffalo Bayou, Brazos & Colorado Railroad Company, passed at the present session of the legislature," it was provided that if said company should avail itself of the act to which said act was a supplement or accept any donation of land from the State it should not be entitled to receive such donation under the provisions of that law or any law that had theretofore been passed for its benefit for any por-
238 tion of its road which should not be completed and ready for use within ten years from and after the passage of that act; and it was also provided that the company should restrict itself to an extension of its existing road to Austin, in the county of Travis, crossing the Brazos river at a point between the town of Richmond, in Fort Bend county, and Hidalgo Falls, in Washington county, with the right of extending its road from Austin to and connecting with any road running north of Austin toward the Pacific ocean, the connection to be made between the 96th and 98th parallel- of longitude; and it was also provided that said company should have no right to build branches from its main line (Special Laws 1854, page 70); that by an act approved January 11th, 1862, entitled "An act for the relief of railroad companies" (Gen. Laws 1862, pages 46, 47), it was provided, in effect, that the failure of any railroad company in this State to complete any section or fraction of a section of its road, as required by then existing laws, should not operate as a forfeiture of its charter or of the lands to which it would be entitled under the provisions of an act entitled "An act to encourage the construction of railroads in Texas by donation of lands, approved January 30th, 1854," and the several acts supplementary thereto, provided such company should complete such section or

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fraction of a section as would entitle it to donations of land under then existing laws within two years after the close of the then prevailing war between the Confederate States and the United States; and by another act also approved January 11th, 1862 (Gen. Laws 18—, pages 43, 44), entitled "An act for the relief of companies incorporated for purposes of internal improvement by allowing them further time for performance on account of the pending war," it was provided, in effect, that the time of the continuance of the prevailing war between the Confederate States and the United States should not be computed against any internal improvement
239 company in reckoning the period allowed them in their charters by any law, general or special, for the completion of any work contracted by them to do; that by a general act entitled "An act for the benefit of railroad companies," approved November 13th, 1866, it was, among other things, provided that "the grant of sixteen sections of land to the mile to railroad companies heretofore or hereafter constructing railroads in Texas shall be extended under the same restrictions and limitations heretofore provided by law for ten years after the passage of this act." (Gen. Laws 1866, page 212.)

Petitioners further represent that petitioner railway company, proceeding under its charter and the various acts of the legislature of the State of Texas above referred to, commenced in due time after its incorporation in 1850 the construction of its line of railway at Harrisburg, on Buffalo bayou, in Harris county, Texas, and had completed and put the same in running order in due time and as required by its charter and the laws of Texas; thence to Alleyton, in Colorado county, a distance of $79\frac{7}{10}$ miles, prior to July 1st, 1868, and had other parts of its line in process of construction; that the constitution of Texas adopted in 1869 and known as the "Constitution of 1869" took effect on the date of its acceptance by Congress, which was March 30th, 1870, as decided in Grigsby *vs.* Peak, 57 Tex., 142, or on the date of its adoption, which was December 3rd, 1869, as subsequently decided in Peak *vs.* Swindell, 68 Tex., 242; but, at all events, petitioner company had completed and put in operation more than seventy-nine miles of its line of road and had under construction the remainder prior to the adoption of that constitution. Section 6, article X, of the constitution of 1869 reads as follows:

"The legislature shall not hereafter grant lands to any person or persons, nor shall any certificates for land be sold at the land office except to actual settlers upon the same, and in lots not exceeding one hundred and sixty acres."

240 That on the 27th day of July, 1870, the legislature of the State of Texas passed an act entitled "An act supplementary to the act to incorporate the Buffalo Bayou, Brazos & Colorado Railway Company and of the other special acts relating to said company" (Special Laws 1870, page- 45–49), whereby the name of petitioner railway company was changed to the "Galveston, Harrisburg and San Antonio Railway Company;" that said act also authorized petitioner railway company to consolidate with its existing railroad the bridge built by the Brazos Iron Bridge Com-

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pany over the Brazos river at Richmond and the five miles of railroad, more or less, from the town of Alleyton to the town of Columbus built under the charter granted to the Columbus Tap Railroad Company, including the bridge over the Colorado river at Columbus, and to extend its existing line of railroad from Columbus, in Colorado county, to San Antonio, in the county of Bexar, within four years from the passage of the act, and thence to a terminus on the Rio Grande river by such route as the directors should deem most feasible, with a branch from the most suitable point to New Braunfels, in Comal county, or to connect with any line of railroad that might be constructed from San Antonio to the Rio Grande south of the latitude of the city of Austin and the Colorado river instead of building its own line beyond the point of said connection; and it was also authorized to connect with any line of railroad that might be constructed or under construction and designed to form a part of any railroad line to the Pacific south of the 35th parallel of latitude.

By section 8 of said act it was provided as follows:

"SEC. 8. That in case it shall be made to appear to the governor that there has not been issued upon said railroad the full quantity of sixteen sections of land scrip for every mile of the same that was constructed and put in running order prior to the war of the late rebellion, in accordance with the provisions of the charter and of the general laws of the State, in force at the time regulating railroads, there shall be issued to said new company said scrip to the amount of any such deficiency, notwithstanding said rail-
241 road may not have been constructed and completed at the rate of twenty-five miles each year after the construction of the first twenty-five miles, as provided in the act of January 30th, 1854."

And by section 11 of said act it was provided as follows:

"SEC. 11. That said new company shall be entitled to the same or similar rights and relief, except State aid in bonds, or endorsement of, or guaranty of interest on bonds, granted to or provided for any other railroad company by the legislature, and upon the same or similar terms and conditions, so far as such rights or relief are, in their character, applicable to said new company or its line, or lines of railroad."

And by section 12 of said act it was provided as follows:

"SEC. 12. That nothing in this act shall be so construed as to deprive any party interested, of the right to disprove any assumed fact stated in the preamble; provided, that nothing in this act contained shall be construed as reviving or renewing any land grant to said company for road hereafter to be completed, which it does not possess by existing law."

Other rights were conferred upon said company and burdensome obligations were imposed upon it by said act.

Petitioner railway company proceeded with the extension of its road west of the Colorado river and completed the same to the West Navidad river, a distance of twenty-five miles further, December 19th, 1873, and completed an additional twenty-five miles June



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25th, 1874, and an additional twenty-five miles January 16th, 1875, an additional twenty-five miles July 12th, 1875, an additional twenty-five miles October 27th, 1876, and the whole line between the Colorado river and the city of San Antonio was completed and put in operation February 13th, 1877, and in due time thereafter the entire line was completed westward to El Paso, Texas, a distance of 623.14 miles. The road was inspected from time to time, as sections of twenty-five miles were completed, by engineers appointed by the governor, and upon the report of the engineer and approval of the same by the governor the commissioner of the general land office issued to the company certificates for land at the rate of sixteen sections of six hundred and forty acres per mile of road, as au-
242 thorized by the aforesaid act of January 30th, 1854, and Nov. 13, 1866, for that part of the road between the Colorado river and the city of San Antonio, as certificates had been theretofore issued at the same rate for that part of the road from Harrisburg to the Colorado river, but the State refused to issue certificates for that part of the line from San Antonio to El Paso, six hundred and twenty-three and fourteen one-hundredths miles in length, although a part of it had been inspected by the State engineer under the direction of the governor, the refusal to issue certificates for that part of the line being based upon the act entitled "An act to repeal all laws granting lands or land certificates to any person, firm, corporation, or company for the construction of railroads, canals, and ditches," approved April 22nd, 1882. As the certificates were issued to the company, the lands were surveyed at large expense and certificates located thereon in the manner provided by law, and patents were also issued for a large part thereof, and the company has ever since paid to the State all taxes, and which were regularly assessed thereon.

Section 6, article X, of the constitution of 1869, above quoted, was amended by a resolution passed by the legislature May 17th, 1871 (Gen. Laws 1871, page 60), and the amendment was adopted by a vote of the people on the 5th, 6th, 7th, and 8th days of November, 1872, and was ratified by the legislature March 19th, 1873 (Gen. Laws 1873, page- 224, 225), and the amendment became effective on that date and removed the restriction imposed upon the grant of lands in aid of railroads.

Petitioner railway company in said suit in the district court of Brewster county in due time specially set up and claimed, and throughout the subsequent proceedings in said cause in appropriate manner specially claimed and contended, that by the acceptance of the various acts of the legislature of the State of Texas hereinbefore mentioned, and the land grant thereby made to it in consider-
ation of the construction of its road, and by promptly enter-
243 ing upon and in due time constructing and completing an important and valuable part of its line at very large expense, before the adoption of the constitution of 1869, and by subsequently completing in due time its entire line petitioner railway company had acquired, under such laws and by the construction of its line, a contract and vested right to the lands granted to it by the

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State, as aforesaid, and earned by it, which contract and right could not be impaired or divested by the constitution of Texas adopted in 1869 or any other pretended law or act of said State contrary to the Constitution of the United States, especially article 1, section 10, thereof, which denies to any State power to pass any law impairing the obligation of contracts, and section 1, article XIV, of the amendments thereof, prohibiting any State from depriving any person of property without due process of law (Davis *vs.* Gray, 16 Wall., 203). But petitioners say that the said district court of Brewster county and the said court of civil appeals, by the judgment complained of in said suit, in effect decided and holds that the said constitution of 1869 operated to deprive petitioner railway company of the said lands, thus holding in effect that the said constitution of Texas adopted in 1869 impaired the contract and vested right aforesaid and deprived petitioner railway company of its said property without due process of law, contrary to the Constitution of the United States, and especially the provisions thereof hereinbefore referred to; and by way of special illustration of such decision and holding, petitioners say that the supreme court of Texas, in their opinion delivered March 19th, 1896, in this cause, answering questions in this cause certified for their decision by the said court of civil appeals, expressly ruled and decided for the government of said court of civil appeals in effect that change of the route of petitioner's
244 road authorized by the aforesaid act of July 27th, 1870, or, rather, the removal thereby of the restriction with respect to its route imposed by the second act of February 4th, 1854, above mentioned, would have carried with it the right of petitioner railway company under its charter and the laws aforesaid passed prior to the adoption of the constitution of 1869 to the grant under such charter and laws of sixteen sections of land for each mile of road it should construct and did construct along said line but for the adoption of the constitution of 1869, and that the adoption of said constitution deprived petitioner railway company of such lands (the same being the lands in controversy) to which it was entitled under its charter and the laws passed prior to the adoption of said constitution and which it had earned by the construction at large expense of an important part of its line, the said court thereby holding in effect that said constitution impaired petitioner railway company's contract and vested right, but that nevertheless said constitution was valid, and the same decision was made by the said court of civil appeals.

Petitioners further represent that on the 16th day of August, 1876, the legislature of the State of Texas, as it was by sec. 3, art. XIV, and other provisions of the constitution of 1876 expressly authorized to do, passed a general law entitled "An act to encourage the construction of railroads in Texas by donations of land," whereby it was provided that any railroad company theretofore chartered or which should be thereafter organized under the general laws of the State should, upon the completion of a section of ten miles or more of its road, be entitled to receive and there was thereby granted to every such railroad company from the State

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sixteen sections of land for every mile of its road so completed and put in good running order; and said act prescribed the usual formalities for ascertaining compliance on the part of the railroad companies with the provisions of the act, the issuance of certificates, etc. (Gen. Laws 1876, page- 153, 154). After the passage of
245 said act petitioner railway company constructed and completed that part of its line between the Guadalupe river and San Antonio, a distance of about thirty-six miles, for which it received certificates and lands from the State, and thereafter, and while said act was in force and before the attempt to repeal the same by the act approved April 22nd, 1882, hereinbefore mentioned, said company extended and completed its line of road and put the same in good running order from the city of San Antonio to El Paso, a distance of 623.14 miles, for which the State refused to issue said company certificates or give it lands because of the passage of the said repealing act of April 22, 1882, the said company having completed its said road prior to the passage of said last-mentioned act. Petitioner railway company by its answer, filed in due time and form in this cause in the district court of Brewster county, alleged the construction and completion of its said road westward from San Antonio to the Rio Grande river at El Paso, a distance of 623.14 miles, prior to the passage of said act of April 22, 1882, and that it had thereby earned and was entitled to lands from the State at the rate of sixteen sections of six hundred and forty acres each per mile of completed road, amounting in the aggregate to 6,380,953 acres; that the governor of the State, in obedience to the law, appointed an engineer to inspect a section of said road, who inspected the same for a distance of eleven miles west of San Antonio and reported that the same had been completed and was in good running order, as required by law, but that the governor thereafter refused to appoint any engineer to inspect the rest of said road, and the governor and the commissioner of the general land office had ever since refused to issue petitioner railway company any certificates for the lands to which it was entitled for the construction of said 623.14 miles west of San Antonio, basing their refusal
246 upon the aforesaid act of April 22nd, 1882, which they claimed repealed the laws entitling said company to said land; that by the construction and completion of said 623.14 miles of said railway while said law was in force petitioner railway company had acquired a contract and vested right to said lands which could not be impaired or taken away by the said act of April 22nd, 1882, and that said last-mentioned act, passed after the acceptance of the State's offer, after the construction in reliance thereon, at enormous expense, of said 623.14 miles of road, after the State had secured the benefits of the quasi-public work, the contemplated consideration of the land grant was, so far as it affected petitioner's right, unconstitutional, null and void, because it sought to impair the obligation of the contract, in violation of section X, article 1, of the Constitution of the United States, and amounted to a deprivation of property without due process of law, in violation of section 1 of the fourteenth amendment of said Constitution; and petitioner

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railway company in said answer prayed in effect that the State's suit be dismissed, and also in effect that the court adjudge and decree that the petitioner railway company had earned and was entitled to receive from the State of Texas sixteen sections of land for each of the 623.14 miles of road it had constructed west of San Antonio, and also that it be held and decreed to be entitled to the land described in the State's petition and sued for herein by reason of the construction of said 623.14 miles of road, if not otherwise entitled thereto, claiming that it had also acquired a contract and vested right to said lands under the act of August 16th, 1876, if not otherwise, which contract and right *was* sought to be impaired and taken away by the aforesaid act of April 22, 1882, contrary to the provisions of the Constitution of the United States hereinbefore referred to; but petitioners say that the said district court of
247 Brewster county and the said court of civil appeals, by the judgment complained of in said suit, in effect decided and held that petitioner railway company was not entitled to said lands, thereby holding and deciding in effect that the aforesaid act of the legislature of the State of Texas approved April 22nd, 1882, operated to deprive petitioner railway company of the said lands, thus holding that the said act impaired the contract and vested right and deprived petitioner of its said property without due process of law, contrary to the Constitution of the United States and especially the provisions thereof hereinbefore referred to.

Petitioners further represent that it appeared from the plaintiff's statement of its own claim, as contained in its petition in this suit in the district court in and for Brewster county, that this suit was and is one arising under the Constitution and laws of the United States, in this: Plaintiff alleged that petitioner railway company was originally incorporated by the special act of the legislature of Texas approved February 11th, 1850, and hereinbefore referred to; that the act of July 27th, 1870, hereinbefore referred to, was passed by the legislature of the State of Texas, and that at the time said act was passed "the constitution of 1869–'70 forbade the legislature from authorizing or granting lands to railway companies for the construction of their roads, etc.," and also alleged that "the issuance of certificates described in plaintiff's petition was in violation of the constitution and laws of the State, etc." Said petition also referred to the special acts approved February 4th, 1854, hereinbefore mentioned. It sufficiently appeared from plaintiff's petition and also from the aforesaid act of July 27th, 1870, specially pleaded therein, that that part of petitioner railway company's line of railway extended to Alleyton had been constructed and was in opera-
248 tion prior to the constitution of 1869. It also appeared from the special acts incorporating and relating to petitioner, as pleaded by the State, and from the general laws of January 30th, 1854, referred to in and made a part of such special acts, that petitioner railway company was entitled to sixteen sections of land for each mile of road it should construct, unless the grant thus made had been in some manner withdrawn, and the constitution of 1869 was specially set up by the State in its petition as a reason why peti-

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tioner railway company was not entitled to the grant for the construction of its line to San Antonio. Petitioner railway company in due time presented to the said district court its application to remove this cause into the Federal court upon the ground, in effect, that the suit was one arising under the Constitution and laws of the United States, claiming that petitioner had proceeded under its charter and the acts relating to it to construct, and had constructed prior to the adoption of the constitution of 1869, an important part of its line at large expense, and had acquired thereby and under the laws above mentioned a contract and vested right to the land grant in question, and that the constitution of 1869, pleaded and referred to in the State's petition, impaired the obligation of such contract, in violation of section X, article 1, of the Constitution of the United States, and deprived petitioner railway company of property without due process of law, in violation of section 1 of the fourteenth amendment of said Constitution; but said application to remove said cause into the circuit court of the United States was by said district court of Brewster county denied and refused, and said district court proceeded with the trial of the same; which action and ruling of said district court was, on appeal therefrom, as aforesaid, by petitioner railway company, affirmed by the said court of civil appeals by the judgment herein complained of,
249 whereby petitioners say that said court decided against the title, right, privilege, and immunity so specially set up and claimed in said suit by petitioners under the Constitution and statutes of the United States and the commission held and authority exercised under the United States.

Your petitioners refer to the assignment of errors filed herewith and pray that the same be considered for the purposes of this petition as a part hereof, and further pray that a writ of error may be allowed and issued herein to the said court of civil appeals in and for the fourth supreme judicial district of the State of Texas, which now has the record in said suit, for the removal of said cause into the Supreme Court of the United States, to the end that the errors in said judgment and in the proceedings in said cause may be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, and that the transcript of the record, proceedings, and papers in said cause, duly authenticated, may be sent to the said Supreme Court of the United States.

T. D. COBBS,
J. P. BLAIR,
JAS. A. BAKER,
R. S. LOVETT,
*Attorneys for the Galveston, Harrisburg & San Antonio Railway Company, E. P. Hill, and W. N. Shaw, Petitioners.*

Allowed by—

J. H. JAMES,
*Chief Justice of the Court of Civil Appeals in and for the Fourth Supreme Judicial District of Texas.*

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250 [Endorsed:] No. 385. The Galveston, Harrisburg & San Antonio Railway Co. *et al. vs.* The State of Texas. Petition to the United States Supreme Court for writ of error. Filed in the court of civil appeals, at San Antonio, Texas, Jun-24, 1897. H. E. Hildebrand, clerk.

251 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable judges of the court of civil appeals in and for the fourth supreme judicial district of the State of Texas, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court of civil appeals in and for the fourth supreme judicial district of Texas, before you or some of you, being the highest court of the said State in which a decision could be had in said suit between The Galveston, Harrisburg & San Antonio Railway Company, appellant, and The State of Texas, appellee, and E. P. Hill and W. N. Shaw, as sureties, on the appeal bond of said appellant, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States and the decision was against their validity, or wherein was drawn in question the validity of a statute of or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of their validity, or wherein a title, right, privilege, or immunity was claimed under the Constitution or a treaty or statute of or commission held or authority exercised under the United States and the decision was against the title, right, privilege, or immunity specially set up or claimed by either party under such Constitution, treaty, statute, commission, or authority, a manifest error has happened, to the great damage of the said The Galveston, Harrisburg & San Antonio Railway Company and E. P. Hill and W. N. Shaw, the sureties on its appeal bond, as by their complaint appears, we, being willing that error, if any
252 hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court, at Washington, within thirty days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the

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United States, the 24th day of June, in the year of our Lo
thousand eight hundred and ninety-seven.

[The seal of the U. S. Circuit Court, Western Dist. Texas, San Antonio

D. H. HART,
*Clerk of the Circuit Court of the United States*
*for the Western District of Te*
By —— ——, *Deputy.*

Allowed by—

J. H. JAMES,
*Chief Justice of the Court of Civil Appeals of the*
*Fourth Supreme Judicial District of Texas.*

253 [Endorsed :] G., H. & S. A. R'y Co. *et al.*, appellant-, v
State of Texas, appellee. Original writ of error. Fi
the court of civil appeals, at San Antonio, Texas, Jun- 24,
H. E. Hildebrand, clerk.

254 UNITED STATES OF AMERICA, *ss:*

To The State of Texas, Greeting:

You are hereby cited and admonished to be and appear at
preme Court of the United States, at Washington, within thirty
from the date hereof, pursuant to a writ of error filed in the cler
fice of the court of civil appeals in and for the fourth supreme ju
district of Texas, wherein The Galveston, Harrisburg & San An
Railway Company, E. P. Hill, and W. N. Shaw are plainti
error and you are defendant in error, to show cause, if any
be, why the judgment rendered against said plaintiffs in er
in said writ of error mentioned, should not be corrected and
speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice o
United States, this 24th day of June, in the year of our Lor
thousand eight hundred and ninety-seven.

J. H. JAMES,
*Chief Justice of the Court of Civil Appeals for the*
*Fourth Supreme Judicial District of Te*

255 Came to hand on the 5th day of July, 1897, and exe
on the 6th day of July, 1897, by delivering, at Austin, T
in my district, to C. A. Culberson, governor of the State of T
and to M. M. Crane, attorney general of the State of Texas, ea
person, a true copy of this writ.

R. C. WARE,
*U. S. Marsh*
By FRED. PECK, *Depu*

Serving 2 copyies of citation, $4.00.

256 [Endorsed:] Galveston, Harrisburg and San Antonio, Railway Company, plaintiff in error, *vs.* The State of Texas, defendant in error. Citation on writ of error. Filed in the court of civil appeals, at San Antonio, Texas, Jul- 10, 1897. H. E. Hildebrand, clerk.

Endorsed on cover: Case No. 16,634. Texas court of civil appeals, 4th supreme judicial district. Term No., 421. The Galveston, Harrisburg & San Antonio Railway Company and E. P. Hill and W. N. Shaw, plaintiffs in error, *vs.* The State of Texas. Filed July 22d, 1897.



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